

L. Brunskill (P.) *Nº 11*
VINDICATION
OF THE
C A S E

Relating to the
Green-Wax-Fines;
SHEWING

How the Rights and Prerogative of the
CROWN are diminished, Officers enrich'd; and the
Subjects oppress'd by the Mis-management of That
REVENUE.

A L S O,

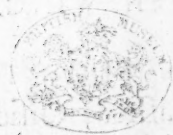
Disproving the ALLEGATIONS used to hinder a Re-
formation thereof, as contradictory to the *Reports* and *Re-*
solutions of the *Judges* and *Lawyers*, and the experience of
Persons of all Ranks and Degrees in all Ages.

*Proved by undeniable matter upon Record, against which the Law alloweth
no Plea or Averment.*

L O N D O N:
Printed in the Year MDCLXXXIII.

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VINDICATION



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To the Right Honourable the Lords
of His Majesties most Honourable
PRIVY-COUNCEL.

My LORDS,

I Cannot forbear to vindicate my
dear Lord's countenancing Mr.
Brunskell, for the Service of my King
and Countrey; and beg of your Lord-
ships to bestow some serious hours to
read and consider of this Case and
Proposals, which I have in all Duty
dedicated to His Majesty by way of
Petition; and when your Lordships
are dispossessed of the prejudice enter-
tained against it by the miscarriage
thereof at the Hearing, through the
crafty insinuations of parties interested
to oppose it, I hope your Lordships will
be pleased, in point of Honour and
Justice, to give His Majesty a true
insight thereinto, and countenance the
Service proposed.

Your Lordships most humble Servant,

YARMOUTH.

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TO THE
Kings most Excellent
MAJESTY.

The Humble PETITION of the
Countess-Dowager YARMOUTH,

SHE WETH,



That to hinder a reformation of the Abuses represented in the Case annex'd, it's alledg'd, That the Abuses generally stated are not to be credited; That Officers cannot be legally subjected to the methods proposed, without a new Act of Parliament; That Fines inflicted will ruine High-Sheriffs; That your Majesty hath no such Revenue, and may dispence with the Judges selling Offices. These Allegations are disproved as follows: The present Lord Keeper, and Attorney-Generals succeeding him, have reported, That the Abuses are practised, and fit to be remedied; That the discovery thereof is good Service, and deserveth to be liberally rewarded. And the Stat. made annis 22 & 23 of your Majesties Reign, cap. 22: and anno 31. cap. 2. declare the Officers guilty of many tricks contrary to their Oaths and Duities, delaying Suits, and withdrawing your Majesties Fines. That the Statute 18 Ed. 3. impowereth your Majesty

To Subject Officers to all reasonable methods to procure your Profits ; and your Majesties Attorney being twice consulted with upon the methods proposed pursuant to that Statute, reported, 1. That such Rules ought to be made. 2. That they were reasonable. That the Statute 27 H. 8. declareth Fines to be your ancient Estate and Prerogative, to relieve your Subjects in their Suits, and cannot hurt High-Sheriffs, being indemnified therefrom by their Under-Sheriffs and Bailiffs. That the Certificate from Ireland sheweth your Majesties Revenue there to be 4000 l. per annum, and England is ever reckoned fifteen times better ; and the Officers confess'd upon the last hearing before your Majesty, that it yielded 12000 l. per annum here. That all the Sages of the Law, writing of the Office of a Judge, agree, that the Statutes 18 & 20 Ed. 3. and 12. R. 2. ought to be observed ; and the Lord Chief-Justice Cooke experimentally declareth, That Justice cannot be duly administred, if the Statute 12. R. 2, be not pursued ; and History and Record testifie, that Judges have been put to death, fined, suspended or banished, for breaking the Laws, and countenancing Officers sinister practices: Yet the Judges, contrary to the Laws and Statutes in force, not only sell Offices at 7 or 8 years value, but wink at their Officers selling thereof, and take great sums of money for New-years-Gifts, Surrenders and Admissions, and vitiate Sacred Record with a gratis admittantur. Now, whereas your Majesty ever graciously declared, That the Case
and

and Proposals should be determined according to Law, which excludeth persons interested to be Judges thereof, interpreting all their Confessions and Allegations disproved as Evidence against them; and tho' the Judges and Officers Allegations, contradicting their own Reports and Experiences, swell the Case to a great bulk, with many References, Reports, Copies of Records, and Hearings: yet the Petitioner is forced to set out the matter of Fact at large, that your Majesty may see that the wrong done to the Petitioner and Mr. Brunskell for nine years past, is not only prejudicial to your Majesty, but of a dangerous and ill consequence to all your Subjects in general.

The Petitioner therefore humbly begs of your Majesty graciously to read the Case and Proposals annex'd, and judge, whether your Subjects, speaking by the Statutes in force, the Reports and Opinions of your Judges, Attorney-Generals, and other able Lawyers, before they consulted the Officers, are to be credited, or their Allegations since. Or that your Majesty will be graciously pleased to appoint Three or more Lords of your Majesties most Honourable Privy-Councillors who do not sell Offices, to report their Opinions to your Majesty upon this Petition, and Vindication of the Case and Proposals annex'd; or that the same may be inserted in a Proclamation, and issued out to the Justices of the Peace in the respective Counties, directing them to enquire by Juries of Knights and Gentlemen at their next Quarter-sessions, Whether the Officers be guilty of the *Abuses* represented? and to return the Juries Inquest, and what they desire in order to a reformation thereof: Then your Majesty will see clearly, whether the Judges and Officers, or the Discoverer and such as countenance him, promote your Majesty and Subjects Interest,

And the Petitioner shall ever pray, &c.

and Proposals should be determined according to
the following principles: -
1. The Government should not be bound by any
contract which it has entered into, unless it
is clearly shown that the contract was made
in good faith and for the public interest.
2. The Government should not be bound by any
contract which it has entered into, unless it
is clearly shown that the contract was made
in good faith and for the public interest.
3. The Government should not be bound by any
contract which it has entered into, unless it
is clearly shown that the contract was made
in good faith and for the public interest.

4. The Government should not be bound by any
contract which it has entered into, unless it
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in good faith and for the public interest.
8. The Government should not be bound by any
contract which it has entered into, unless it
is clearly shown that the contract was made
in good faith and for the public interest.

TO THE
High and Mighty MONARCH,
CHARLES II.

By the Grace of GOD
KING of England, Scotland, France, and Ireland,
Defender of the Faith, &c.

Most Gracious Sovereign !

THe Law maketh restitution of Goods forcibly taken, by indicting the Malefactors at your Majesties Suit ; or by an Action of Trover and Conversion. But my Case is harder, having my Pockets pick'd by Lawyers Fees, Copies of Records, References, Reports, &c. Because your great Ministers would not otherwise credit my Discovery of Abuses practiced by Officers in withdrawing your Profits, and my Oath by the Stat. 1. Eliz. 1. enjoyned my consent, to promote your Revenues, being a long time encouraged therein, until I desired and was denied such Orders or Rules to secure your Majesties Profits, as the Officers used to secure their own and Judges Fees, and my consent abateth my Remedy at Common Law, therefore I addressed with my Lord Yarmouth to your Majesty in Council, for a recompence, and an Authority to act pursuant to the Reports and Opinions of your Majesties Council : And my Council explained

plained my PROPOSALS thus: That as the Judges usually stopt Suitors Motions, until Affidavits were fil'd, and Fees paid, they might hinder the Officers to take their Fees of Attorneys and Solicitors, until Proceedings were recorded, and your Majesties Profits secured; or, as the Revenue was ancient and good, The best way to make the Judges careful thereof, was to allot their Salaries to be paid thereout. But the late Lord Chief-Justice Pemberton, who had declared, That your Majesty had no such Revenue, moved, That His and the other Judges Opinions might be taken of the Case and Proposals, without debating the same. And that motion being not rejected, I was discouraged to say what I designed in my own vindication: So miscarrying therein, I am without all hopes of relief, until the Parliament be called, unless your Majesty graciously help me. Your Majesty being the Fountain of Equity, which suffereth no man to depart without Relief, because it abateth the rigor, and supplieth the deficiency of the Law. Therefore I humbly, and in all duty, beg your Majesties gracious consideration of the ensuing Vindication, and the Nine years unwearied Industry, of,

DREAD SIR,

Your Majesties Loyal

and Dutiful Subject,

P. BRUNSKELL

THE VINDICATION OF

Mr. Percival Brunskell's Case and Proposals ABOUT THE

GREEN-WAX-FINES and OFFICES.

SHEWETH,

That divers Proceedings, whereon your Majesties casual Revenues arise, are never recorded, because the head Officers, forsaking the old practice to record Proceedings, (before any thing be done thereof) take their own and Judges Fees upon signing thereof, and leave the Attorneys to record them, *when*, and *as* they please: whereby they often deceive your Majesty of your *Capias pro fine*, and put your Subjects to the trouble and charge to record divers Judgments upon Post-Rolls two or three Terms afterwards; But if the Paper Copies be lost, as some have been, your Subjects lose their Debts thereby.

That the Surveyor and his Deputies may have the signing of all Proceedings, for security of your Majesties

Abuse represented.

The Order proposed to remedy this Abuse

ties Profits, as the Officers have, for the security of their own and Judges Fees; keeping in like manner a settled Office, in or near the Seal-Offices of every Court, for conveniency of Attorneys to repair unto.

* Note, That the chief Clerk, and Clerk of Estreats, in every Court, not only enjoy particular Perquisites, but are particularly enjoyed by an Oath, by force of the Statute 1 *Etiz.* 1. to take care of your Majesties Rights: yet neglect Them, to enrich themselves, as set out at large in the *fifth Abuse* following; *Ergo*, a voluntary Reformation cannot be expected from them.

* For head Officers, understanding the Attorneys tricks, do not trust their own, or Judges Fees, to be admeasured by what they record, tho' firmly bound by Oath and Duty to practice without deceit: Also the Judges frequently stop Suitors motions, until Affidavits be fil'd, and Officers Fees paid; and other Contrivances, lately projected, are

practised, to increase the Fees and Perquisites of Courts, as are set out at large in the *fifth Abuse* following, which the Judges or Officers are not particularly impower'd to do by any Act of Parliament; *Ergo, à multo fortiori*, your Majesty (being impower'd by the Statute 18 *Ed.* 3. to do all reasonable things) may subject the Officers to this method, or reduce them to their first practice; which the Attorney-General hath reported ought to be observed, *because your Majesties Profits will then be as well secured as their Fees*: For it is impossible to know *what they neglect*, unless it be known *what ought to be recorded*.

Abuse.

*Capias pro
Fine 1000l.
per annum.*

That your Majesties Fines upon Judgments *quod capiatur*, in all Courts, amount at least to 1000 *l.* per annum; but Officers (without any Grant or Warrant from your Majesties Royal Ancestors, or Treasurers) buy

buy necessities for the Judges, and repair the Courts therewith, and detain part as Fees due to themselves, and render no accompt thereof into the *Exchequer*, as they ought to do : Also oppress poor people, by running them to the Outlawry, and putting them to 3 or 4 *l.* charge in the *Common-Pleas*, where your Majesties Fine is but 6 *s.* 8 *d.* and to 10 *l.* charges in the *Kings-Bench*, being forc'd to appear personally, whereby your Subjects pay ten times more than your Majesties duty.

That Officers may account, and receive a Warrant from the *Exchequer* for their Allowances, as other Accomptants do : Also, That Officers may discretionarily tax, or add to the Suitors Costs, so much as the Fine upon the Judgment *quod Capiatur* may amount unto ; and may take a *Memorandum* from the Attorney, to take care to see the same paid when the Costs are levied, as the Officers used to do for their own damage clear ; for Costs may be taxed more or less discretionarily, as they please : and by this means your Subjects will be freed from paying more than the duty. And whereas the present Lord Keeper, by a Derivative Power from your Majesty, granteth relief even where the Laws are deficient : Your Majesty being Primitive, already empower'd by the Statute 18 *Ed.* 3 (now in force) to do all reasonable things to procure your Profits, cannot, in point of Law and Equity, be destitute of prudent or legal means to secure your Fines, with ease and relief to your Subjects, as proposed.

Order proposed to remedy this Abuse

23rd Ben
10th

Abuse.

Issues of
Juries
8000 l.

That Officers and Clerks, for Bribes and Rewards, withdraw Issues of Jurors, which in *England* and *Wales* amount unto 8000 l. *per annum*; whereby Juries are supplied with indigent Free-holders, *de circumstantibus*, which Under-Sheriffs or Bailiffs, at the instance of their corrupt Clients, may have packt: there being little or no time to enquire of their Credit, so as to challenge them; which occasioneth corrupt Verdicts: And vexatious Plaintiffs frequently make Defendants dance attendance two or three Assizes, to draw them to comply with their demands; whereby the Gentlemen at first impannell'd being still return'd as Jurors, are forced to the trouble and charge to attend old Causes.

Order pro-
posed to
remedy
this Abuse.

That Officers to whom it belongs may record all the Judges Orders, as well general as particular, distinctly, in a Book, or Parchment-Roll; then the Officer or Clark withdrawing Issues without the Judges directions, may be easily discovered and convicted: Also, That Under-Sheriffs may return Free-holders to serve in their turns; then Gentlemen in all or most Counties will not be returned above once in three or four years, nor be forced to attend old Causes. This will make Gentlemen willing to be Jury-men, and prevent the Abuse; and if your Majesty have not many Forfeitures, your Subjects will be endeared with good Juries; *Ergo*, Reasonable.

4. Abuse.
Forfeitures or
Penalties
upon Actions
popular and
Informations,
20000 l.

That penalties upon Actions-popular, & Informations, amount at least to 10000 l. *per an.* and the Suits ought not to abate, without your Majesty or Judges privity, to the end that the wilful Breakers, or non-observers

of the Laws, or the malicious Informers or Prosecutors, giving your peaceable Subjects disturbance, without just cause, may be punished: But at this day due care is not taken to record Plaintiffs Names in Actions-Popular, and Informations, before Process for the Arrest issue out, whereby litigious persons may sue whom they please, and by Instruments under-hand get what they can by private agreements, and the Defendants are liable to be sued *ad infinitum* upon the same account, until the Action or Information be recorded; and by the Officers neglect to file Informations, any person confederating with the Criminals, may soist in an antidated Information, and plead it in bar to the real Prosecutors, whereby your Majesty loseth your share of your Penalties, and Criminals, upon breach of penal Statutes, escape unpunished; and your peaceable Subjects, being harrassed between Officers and malicious Informers, or Prosecutors, (for want of a Record) cannot be relieved.

That Officers may be ordered to observe the Statute 18 Eliz. cap. 5. (now in force) enjoinning them to record Informations before the Process for the Arrest issue out, and that Plaintiffs Names in Actions-Popular may be recorded in a Book, or Parchment-Roll, for that purpose, before the Process issue out; and that the like Orders may be made in the *Kings-Bench* and *Exchequer*, as are made in the *Common-Pleas*, to prevent the imbezlement of *Postea's*: If this be ordered and observed, it will prevent the Abuses stated; Ergo, Reasonable.

Order proposed to remedy this Abuse

That

Abuse.

That Fines and Amerciaments are never recorded and prosecuted, unless your agrieved Subjects, oppress with the artifices of Under-Sheriffs, Bailiffs, and Attorneys, add to their own misery, by seeing the head Officers to do it, because the Officers Fees increase by delatory returns, and Contempts, which multiply Proceedings, Orders, Motions, and Continuances; * So that it's

* Note, That vexatious Defendants, being seldom or never punished by Fines or Amerciaments, are encouraged to withstand just Debts, by suggesting a feigned Equity, and pleading fictitiously to keep the Plaintiffs in suspense three or four years with their own Money, so force them to an easie Composition at last; Also vexatious Plaintiffs are thereby encouraged to be very litigious, keeping Defendants from an equitable relief two or three years with Contempts, until they swell to commissions of Rebellion: Thus your peaceable Subjects are oppressed, your Revenues diminish'd, and Officers enriched:

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not the *Offending*, but the *Offended* and grieved Subjects, that are punished; as for instance, when the first *Habeas Corpus* is disobey'd, the parties grieved pay to the Judges and Officers for every *alias & plures* 10 s. besides 20 or 30 s. to Councillors and Attorneys, for Fees, Motions, and Orders; and Under-Sheriffs (or Gaolers farming the Gaols of them) prey upon Prisoners with Diet and Lodgings: whereas, if a good round Fine were set upon the first Contempt, (though afterwards, upon reasonable cause, remitted or mitigated) the Offenders will then be punished, and the agrieved Subjects freed from that expence, and the Fines and Amerciaments so inflicted upon every Contempt of Rules, Orders, and Process, will amount to 20000 *l. per annum*, or Officers to avoid them, will expedite Suits; so that your Subjects ease and relief will tant-amount what the Profits may fall short thereof; and by the ancient course of Courts,

Sheriffs

Sheriffs were ever fined as the Law directeth for the Defendants non-appearance: For that reason the Stat. 23 H. 6. cap. 10. impowereth Sheriffs to take Bail-Bond to indemnifie themselves from your Majesties Fines; which sheweth, That such Bonds ought not to be sued, until Sheriffs be actually damnified; and that the Action ought to abate when Sheriffs are re-imbur-sed; but Officers and Attorneys, to increase their own profits, by projected Contrivances, see Under-Sheriffs, (and indemnifie them from your Majesties Fine) to assign over such Bonds to Plaintiffs, to sue, whereby they not only deceive your Majesty of your Fines, but wrongfully harrafs your Subjects upon their Bonds, because they can only plead to stave off Proceedings thereon; until they can move the Judges for relief; who never grant any, without making them pay all the Officers Fees, and Plaintiffs Charges occasioned by suing such Bonds; also making them give Bail to the Original Action, though the demand be large and fictitious; so that the great expence and trouble of seeing Council, Attorneys moving the Courts, and the difficulty, when all is done, to find Bail to the Original Action, especially if they live remote from London, forceth poor people to disadvantageous agreements; also by another new projected Contrivance, called *as etiam Bill*, Plaintiffs are encouraged to commence many Suits, to increase Officers Fees and Perquisites, because they may lay their demands as high and vexatiously as they please, to squeeze advantageous agreements out of Defendants upon Ar-rests,

Fines up-
on Ori-
ginals,
1000 l.

rests, and deceive your Majesty of the Fine or Duty, amounting to 1000 *l. per annum*, which was ever paid before Process for the Arrest issued out, according to the first demand, and hindred Plaintiffs to oppress Defendants by holding them to unreasonable Bail, by exceeding their real cause of Actions, as now. And whereas, to excuse their contrivance of *ac etiam Bill*, it was alledg'd before your Majesty at the hearing, *That the Moity of all Fines upon Originals belonged of Right to the present Lord Keeper, and the Master of the Rolls, for Diet and Board-wages, because they and their Predecessors ever enjoy'd them* : This allegation may be presumed to be a great mistake ; For amongst all the things granted or allowed to them, or their Predecessors, there is not the least mention of these Fines ; and the Judges have resolved in the Earl of Devonshire's Case, *That a long Enjoyment, by force of general words in Letters-Patents, cannot create a Right in Law to any Profits of the Crown*. Also the Statute 1 *H. 4. cap. 6.* provideth, *That nothing shall pass out of the Crown, without it be expressly named and granted*. And it's well known, that the late Lord Keepers and Chancellors have other and greater Salaries and allowances, particularly granted by your Majesties Royal Father and Grandfather, than their Predecessors ever enjoyed ; and Queen *Elizabeth* granted, and King *James* confirmed, a Moity of all Fines upon Originals to the Cursitors in Fee ; *Ergo*, Your Majesty hath a Right to take or grant the other Moity.

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That

Note, That an Ancient duty was ever paid upon Formedons, and all Actions upon the first Commencement, Ergo, Ejectments invented instead thereof ought to pay accordingly: For private persons holding Tolls and Franchises by Grants of the Crown permit no Incroachments, Ergo, your Majesty being primitive may avoid them, because all Loyal and Ingenious Subjects know, that your Crown cannot be supported without Royal Aides or Duties, which must issue out of Real, or Personal Estates, Trade, Proceedings at Law, or Offices: For that reason, when it was perceived; that the Crown was deceived of a Duty by projected Recoveries: It was Enacted by the Statute 32 Hen. 8. cap. 1. That Writs of Entry shall pay as much as Covenants in Chancery.

That the head Officers in every Court, to whom it belongs, may keep an exact Bill of Pleas, and record all Contempts therein as soon as committed, and set the Fines and Amerciaments presently, taking it *pro confesso*, if the person or Officer offending, at the day given, or before, do not appear, and discharge himself, that he is guilty; and that Fines upon Originals be paid as anciently: This will prevent the abuse; *Ergo*, Reasonable.

Order proposed to remedy this Abuse.

That Fines and Amerciaments, set by Justices in Eyre, Commissioners of Sewers, and Clerks of the Markets, are not estreated, which amount to 1000 *l.* per annum; also, Amerciaments in Sheriffs Turns and Leets, amount to 1000 *l.* per annum at least; there being at least 600 Hundreds in *England* and *Wales*, besides many Manors wherein Courts are holden twice a year, and all the Amerciaments not granted away, belong to your Majesty; yet due care is not taken thereof, as the Statute 14 *Rich.* 2. cap. 11. and 11 *H.* 7. cap. 15. direct, which the Attorney-General hath reported ought to be observed; and Bailiffs of Liberties observe it not, tho' enjoyned to do all things required of Sheriffs, by force of the Statute, 27 *H.* 8. cap. 24.

6 Abuse.

Fines before Justices in Eyre, Commissioners of Sewers, and Clerks of the Markets, 1000 *l.* Amerciaments in Turns and Leets, 1000 *l.*

That Fines and Amerciaments may be duly estreated into the *Exchequer*, from the Justices in Eyre, Commissioners of Sewers, and Clerks of the Market;

Order proposed to remedy this Abuse.

Market ; also, that Amerciaments in Turns and Leets may be estreated, and returned to the Sessions, as the Statute 11 *H. 7.* cap. 15. doth direct, that Duplicates may be returned from thence into the *Exchequer*, to charge accomptants therewith ; For your Subjects presuming to have a Right of Common, or the like, not worth 2 *d.* will be at expensive Suits to preserve their Rights, *à multo fortiori*, your Majesty may preserve yours, because these Fines and Amerciaments being contingent things, may happen at one time or other to be very considerable in all Courts throughout the Kingdom ; and all Stewards and Clerks of the Peace are enjoined by Oath and Duty to do as the Statute directeth ; and your Subjects Rights and Liberties cannot be injured by adjusting your Majesties Rights ; *Ergo*, Reasonable.

7 Abuse.

That the Officers of the *Exchequer* (disobeying the Barons Orders) permit Under-Sheriffs to take their Bailiffs Returns and Accompts, *de bene esse*, and pass them as true in the *Exchequer* ; whereby Wages are allowed for the Clerks of the Peace, as Servants to the Justices not attending at Assizes or Sessions, whereas they are no Servants within the meaning of the Statute 14 *Rich. 2.* to whom Wages ought to be allowed ; and there being two thousand Justices of Peace in *England* and *Wales*, a fourth part may be modestly reckoned

koned not to attend at one and the same time, whose Wages, computing the Petit and Grand Sessions, and Assizes in every County, one with another, at 4 s. *per diem*, and 2 s. for their Men, for every days non-attendance, amount to 3000 l. *per annum*, and upwards, whereof your Majesty is wronged, and the Justices get not a farthing.

Allowances for Justices wages say'd, 3000 l.

Order proposed to remedy this Abuse.

That Wages may not be allowed upon Under-Sheriffs Accompts to Clerks of the Peace deputed by the *Custos Rotulorum*, or any other, as Servants to any Justices of the Peace, unless the Justices themselves do attend at the Assizes and Sessions, as the Statute 14 *Rich. 2.* cap. 11. doth direct; and that the Bailiffs, or others, who pay the Justices Wages, may attest his or their accompts upon Oath, before a Magistrate appointed to take *Affidavits*, particularly shewing what they pay, and to whom, that Under-Sheriffs may produce the same to accompt by in the *Exchequer*, as the Barons have ordered; because the Under-Sheriffs swearing their Bailiffs returns to be true for ought they know, signifies nothing; for that reason divers Under-Sheriffs formerly passed their accompts by *Proxeys*. This Order will prevent the Abuse: *Ergo*, Reasonable,

That the *Nomina Villar'*, whereby the Boundaries of Liberties are now adjusted, were taken at first upon the Information of Under-Sheriffs, who received the same from their Bailiffs *de*

8 Abuse.

bene esse, without further Enquiry thereinto.

Order pro-
posed to
remedy
this Abuse.

That Sheriffs for the future take Indentures of Bailiffs of Liberties, to execute all Proceſs, as the Statute 12 *Ed. 2.* cap. 5. doth direct, and return ſuch as particularly relate to your Maſteſties caſual Profits, into the Court of *Exchequer*, that Officers may know on whom to place the accompt thereof; alſo, that the Boundaries, or extent of Liberties, may be diligently enquired into, and aſcertained by the Verdicts of ſubſtantial Juries, ſo be made good matter upon Record for the future: For as private Lords and Pariſhes yearly ſurround their Boundaries to prevent encroachments, *à multo fortiori*, your Maſteſties ought to be enquired into, and aſcertained by good matter upon Record.

9 Abuse.

Forfeited
Recogni-
zances
certified,
100000 l.
Forfeited
Recogni-
zances not
certified,
100000 l.

That the Recognizances of ſolvent perſons, generally compounded and withdrawn, amount unto as much or more than ſuch as be eſtreated; and the Recognizances which are now eſtreated amounting to 100000 *l. per annum*, would be likewise compounded or withdrawn, if the poor people were able to ſatiſſie the Officers demands, for the *Clarks of the Peace* ſeldom take leſs than 16 *s.* *Clarks of Aſſize* 3 or 4 *l.* and Officers of the *Exchequer* 7 or 8 *l.* (whoſe Fees exceed not 3 *l.*) to diſcharge perſons admitted to compound; whereby poor people being admitted to compound Penalties of 40 *l.* (due to your Maſteſty,) for

for 2 d. (not being freed from Officers excessive Fees, and the great charge and trouble of formal Pleadings, Motions, suing out *Quietus*, and the like) are deterred from applying to your Majesties Courts for mercy, and forced under-hand to bribe Under-Sheriffs and Bailiffs, who prey upon their necessities, with respits and false returns, until they insensibly become insolvent, and bring themselves and Families to be maintained at the Parish-charge: Thus Officers acquit your solvent Subjects, and clog your Majesties *Exchequer* with the Recognizances of the poor people, who are willing to pay what they are able, but not able to pay so much as the Officers demand; and the Law consisting but of two parts, *viz.* *Judicial* and *Executive*, and most Offences beingailable, Criminals are at their own elections, whether they will stand Tryal, or forfeit their Recognizances; and the Judges being fully employed in Judicial matters, cannot take notice of every thing transacted by Officers; and being ignorant of the Executive part, generally take the advice of the Protho-Notaries, or head Officers, therein; so that the Execution, which is the life of the Law, depends chiefly upon the skill and honesty of Officers; which makes rich Offenders, who have money at will, very insolent, and discourageth your peaceable Subjects to prosecute and convict them, as appears more fully by the

Reasons

Reasons and Arguments humbly offered for your
Majesties disposing of Offices.

Order pro-
posed to
remedy
this Abuse.

That the **Clarks** of **Affizes** and **Peace**, may
enter all **Recognizances** in a **Book**, or **Parch-**
ment-Roll, as soon as they come to their hands ;
and not keep them, as now, upon loose **Files** :
that poor people, through inadvertency forfeiting
Recognizances, or incurring other great **Penal-**
ties, (if their **Case** appear, upon **Petition** and
Proof, to deserve mercy) may be discharged by
an **Order of Court** without more ado ; or that an
Office may be erected to compound such **Forfei-**
tures, in nature of the *Alienation-Office*, which is
still continued to free your **Subjects** from the
chargeable formalities of the *Exchequer* ; For,
ubi eadem ratio ibi idem jus : But the **Arguments**
are more forcible in this case, because the remain-
ing branches are many, and the benefit accruing
thereby, both to your Majesty and **Subjects**, will
consequently exceed the *Alienation-Office* in every
respect ; and it's for your Majesties **Honour** and
Profit, to give your **Subjects** who ought to have
Mercy shewn, a legal and cheap way to obtain
it, which will endear them to your Majesty, and
hinder all indirect application to **Officers**. Before
the erection of the *Alienation-Office*, your **Subjects**
paid after the rate of 10 *l. præ fine* for every 100 *l.*
per annum, according to the real annual values of
their **Estates**, ascertained upon Oath in the *Ex-*
chequer,

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Note, That the general Grievances of your Subjects consisting in Purprestures, common Nuisances, defective Bridges, Causeways and common Pounds, Land Mark removed Hedge Breakers, Riots, Assaults, common Barretors, Eves-droppers, Inns or Ale-houses Lodging persons of ill Fame, Regraters, Foresters, Bakers or Brewers failing in Assize of Bread and Beer, False Weights and Measures, Cattel Infected put into common Pastures, and the like, cannot be redressed while Recognizances are withdrawn, and Criminals discharged upon easie Compositions without hearing what's to be said in your Majesties behalf. As for instance, *Mary Hunt* and her Bail (being bound and indebted to your Majesty in the sum of 1400 *l.* by several Recognizances to stand Tryal of divers Crimes wherewith she was charged) confessed it cost her 400 *l.* and upwards to Officers for withdrawing her Recognizances to hinder the Prosecutor to expose her by open Tryals to publick Justice: And it's a violent presumption that Officers used indirect practices to gratifie her therein, because in disobedience of the expresse Rules of Court, and in contempt of the Statutes 51 Hen. 3. 7 Hen. 4. cap. 3. and 2 Hen. 6. cap. 10. (after they had received divers Fees of the Prosecutor to Estreat them into the Exchequer) did not Estreat any save one to try an Indictment in *Michaelmas* Term 1682. which they knew would be (as it is) discharged of course: Two Recognizances (to try Indictments for keeping a publick House, and entertaining Lewd and Debauch'd persons; after the Fact was confessed, to avoid the Tryal) were discharged by a single Judge at's Chamber privately for 3 *s.* 4 *d.* a piece: Another to keep the Peace, being forfeited by her wilful breach thereof, was particularly ordered to be Estreated after *Hunt*'s death: Because the Bail confessed they had 100 *l.* a piece in their hands to Indemnifie themselves: Yet the Bail are since discharged by Rule of Court without paying the Money in their Hands to your Majesty, or hearing what the Prosecutors had to say: Whereas in all matters relating to private persons, the adverse parties ever have a day given to shew Cause before any thing be peremptorily ordered: These practices made *Hunt* so insolent, that boasting of her prevalency with Officers, she Spit in the Prosecutors Face; hired persons to Murder her, and threatened to Burn her House: And the Officers and Bail aggravating her Grievances by Infamous Misrepresentations and other Affronts, she moved the Court to have the Premises duely examined; but was committed to Prison.

chequer, and the Officers forced them, (with Pleadings, suing out their *Quietus*, and the like) to expend more than the Duty amounted unto: But after the erection of that Office, Estates were ever valued within their worth, and without charge to your Subjects, and by that means Queen *Elizabeth* advanced her Revenues in that very branch, from 2000 *l.* to 9000 *l. per annum*, because it went through fewer hands, and Officers were under an effectual controul to bring what they received duly to accompt; and the Office was ever grateful to your Subjects, and would be so still, if re-minded of the benefits they thereby enjoy; For the Officers who now clamour for the loss of their Fees by the continuance thereof, and do what they can to hinder your Majesties gracious erection of another Office, as proposed, are not one in number to a thousand, compared with your Loyal Subjects, who will be relieved and endeared thereby; *Ergo*, the Officers private Interest is not to be regarded, because *Bonum publicum ante privatim preferendum*.

That the Statute 51 *H. 3.* limiteth and appointeth all Sheriffs (except *Northumberland*, and others, by particular Statutes exempted) to pay your Majesties Fines half-yearly, viz. at *Easter* and *Michaelmas*, and the Process of the *Exchequer* for that purpose are issued out after every *Hillary* and

10 Abuse.

Trinity and *Easter*-Terms ; yet Officers generally respire the Under-Sheriffs first half-years Payment until *Trinity*-Vacation, and often longer ; and if High-Sheriffs happen to die, (as Sir *Solomon Swaile* did, who was High-Sheriff of *Yorkshire*) your Majesty may long want your Fines, and lose them at last ; and if Under-Sheriffs should die before their Accompts be perfected, the High-Sheriffs, who are the Accomptants in point of Law, would be at a great loss ; *Ergo*, It's neither for your Majesty nor High-Sheriffs Interest, to have the Accompts so generally respired.

Order proposed to remedy this Abuse.

That the Statute may be observed by all Sheriffs, excepting the Sheriffs of *Northumberland*, or such as are particularly exempted.

11 Abuse.

That Officers of the Court of *Exchequer*, for their own advantages, fictitiously suggest Suitors to be *Debitores Domini Regis*, to intitle that Court to try divers Actions, which it's prohibited to try, by force of the Statute 10 *Ed. 1.* still in force, whereby your Majesty loseth your Fines : And whereas the Laws entitling your Majesty to your Fines or Amerciaments, remain *in statu quo*, not altered, the Officers Contrivances long practiced can be no hindrance, if your Majesty think fit to reduce that Court to its first establishment, or to make it pursue the old method of the *Common-Pleas*, for the due and orderly setting, recording and estreating Fines, as the Laws direct ; For the

Plea

Plea and *English-side* of the *Exchequer* differing from the *Money-side*, stand in as much need of reformation as any other Courts.

That Officers of the *Plea* and the *English-side* of the *Exchequer*, may be subjected to such Orders as are proposed to reform the like Abuses in other Courts. *Order proposed to remedy this Abuse.*

That Fines in all Ecclesiastical Courts throughout the Kingdom may be modestly computed to be 6000 l. *per annum*, and were duly collected, and paid into the *Exchequer* by particular Receivers thereof, as appears by the Patent-Rolls and Records down to the late Rebellion: But since your Majesties happy Restauration, only a few Fines upon Excommunications are certified into the *Exchequer*, and all the rest concealed. *12 Abuse. Ecclesiastical Fines 6000 l. per annum.*

That the Officers may be subjected to such Orders as are proposed for the Officers of other Courts. *Order proposed to remedy this Abuse.*

And whereas it's alledg'd, That the *Attorney-Generals Reports* are mistaken; That your Majesty hath no such Revenue; That the Abuses are not to be credited; That it's illegal, imprudent, and impracticable, to subject Officers to the methods proposed; That *High-Sheriffs* will be ruined by Fines inflicted: these Allegations are fully disprov'd as followeth. *Fictitious Allegations*

The present Lord Keeper, when your Majesties *Attorney-General*, about October 1674. of his own knowledge reported, That the small Fines and *Amerciaments* in all Courts are wholly *neg-* *The present Lord Keeper's Report when Attorney-General.*

neglected; which, if carefully look'd after, will be of a considerable value: and the said Brunskel, if your Majesty please to favour him, deserveth an employment therein, for so useful a discovery. And his Lordship declared, That he was glad of the opportunity so to report, because he had often moved the Judges to take care of them: But soon after, being elected Chief-Justice of the Common-Pleas, his Lordship declared, He had mistaken his Report, and refused to draw up an Instrument pursuant thereunto; which being referred to the examination of Sir Charles Harbord, he reported amongst other things, That he had conferred with the Protho-Notaries, and the said Brunskel, before his Lordship, and found it agreed, that all Fines and Amerciaments of Courts were due to your Majesty: Thereupon his Lordship, in behalf of his Officers, gave this following opinion to the Earl of Danby, late Lord Treasurer, viz. That all that need be done for the better management of your Majesties Fines and Forfeitures arising in the Court of Common-Pleas, might be by appointing an Officer, 1st. that might yearly take the Accompts of the Protho-Notaries, whereby there will be a controul upon them, and they will be bound to pay the moneys in their hands as your Majesty should appoint; 2d. that they might take care that Process and Estreats be duly made in all Cases that concern your Majesty, and that no composition be made to your Majesties prejudice:

Sir Charles
Harbords
Report.

Lord
Chief
Justice
Norths
opinion.

prejudice: whereby the Informers (that pocket up your Majesties share in prosecution of penal Laws) will have some check upon them, and the Officers of Courts will be obliged to do their Duties. Thereupon your Majesty was graciously pleased, by Letters-Patents, to empower the said *Brunskell* and Mr. *Dodd* to superintend the Officers, and take their Accompts; which was stopped, after it had passed the Privy-Seal with no small trouble and charges to the said *Brunskell*, upon pretence, that it was *Empson* and *Dudley's* Case, who had power to imprison, impose, levy, compound and discharge Fines and Penalties as they pleased; whereas the said *Brunskell* never had, or desired, any such power, but a controul upon Officers to make them do honestly, or be an Evidence to convict such upon Tryals at Law as did otherwise; which tended not only to your Majesties Honour and Profit, but your Subjects Relief: yet was denied a Patent, or Commission, to survey this Revenue, as illegal, imprudent, and impracticable, until he produced several Precedents of Patents and Commissions, which were maintained by Sir *Francis Winnington*, (your Majesties Solicitor-General) Mr. *Saunders* (before Lord Chief Justice) Sir *Robert Sawyer*, Serjeant *Raymond*, and Sir *John Sympson*, of Council for the said *Brunskell* in behalf of your Majesty, to be legal, prudent, and practicable, upon several

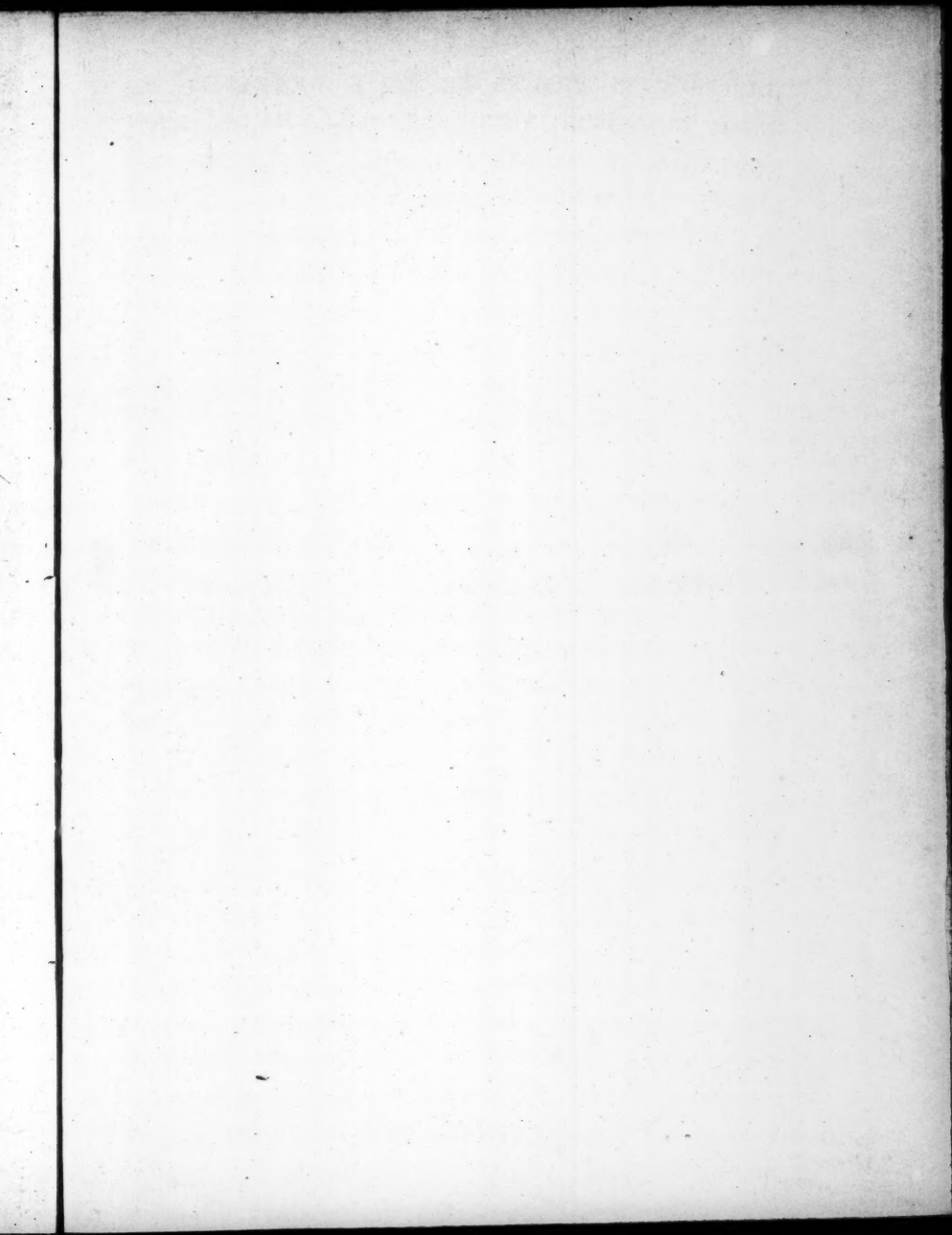
Debates thereof, with the Judges Officers, and their Council, before your Majesty in the *Treasury-Chamber* ; whereupon your Majesty was graciously pleased to constitute *Henry* Earl of *Peterborough*, *Robert* Earl of *Yarmouth*, *Henry* Lord *O Bryan*, *Sir Francis Compton*, *Mr. Green-vile*, *Mr. Fanshaw*, and the said *Brunskell*, Surveyors, and granted them one Moity of the

Green-wax-Fines, * reserving so much to your Majesty as your Majesty had usually received thereout, upon condition to see the other Moity duly answered to your Majesty ;

* *Note*, The Officers Certificate to the Earl of *Danby*, when High-Treasurer, sheweth, That your Majesty received but 500 *l. per annum* out of the whole *Green-wax-Fines* ; and your Majesty reserved 250 *l.* for the Moity.

which being stopt at the Great-Seal, the Patentees took Serjeant *Maynard's* advice thereon, who in private told them it was legal ; but when he appeared in publick, and saw all the Judges and Officers against it, he retracted his Opinion, after he had received 50 Guineys in Fees : then the said *Brunskell* produced several Precedents, which proved, That all Fines and Forfeitures were actually granted in Farm, both in *England* and *Ireland*, and in Fee to divers Cities and Corporations in both Kingdoms, where the Grantees had power to impose, prosecute, levy, compound, and discharge the same, as they pleased ; and the Council which maintained the legality of the former Precedents, maintaining the legality of the

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Note, furthermore, That all Fines and Forfeitures of Popish Recusants and others relating to Religion included in this Certificate, were excepted out of the Grant of the Moiry.

the latter upon a publick hearing as aforesaid, your Majesty was graciously pleased to make this remark thereon; *As the Grants with those Powers were good in Law, allowed and practised; the Letters-Patents, without them, could not be illegal.* Then the Earl of Danby put the Question, *Whether it was necessary to have a Surveyor of this Revenue?* And the Judges and Council of both sides agreeing him to be a necessary Officer, your Majesty was likewise graciously pleased to make this further Remark thereon; *That it was more prudent to give him a Moity of the Improvement, than a certain Salary, because it would make him the more industrious to manage it carefully, as well for your Majesties Profit as his own, seeing no Improvement, no Pay:* Whereupon the Patent was passed, and continued above a year, during which time the Grantees were hindred to execute it, because the Judges, who were daily solicited, did not subject their Officers to prudent Rules or Methods for your Majesties Service. Furthermore, it's very remarkable, when the Abuses and Remedies stated in effect, as before-recited, were carried to Sir William Jones by persons active in the revocation of the Patent: he, who formerly adhered to the Officers, and refused to report any thing in favour to the said Brunszell, (taking his Enemies to be Discoverers of the Abuses) reported thereon of his own knowledge, * *That many* Sir William
Jones's Re
port.

of the Abuses being true, are fit to be redressed; That all, or the greatest part thereof, may be redressed by the Judges Orders in the respective Courts; That the Discoverer deserved all due encouragement for the Service he hath already done, and may for the future do, in discovering these or the like Abuses; also the assurance of a liberal Reward. And the Judges confirmed his Report, by acquainting the Lords Commissioners of your Majesties Treasury, That they had made Orders pursuant thereunto; Also the Barons, by agreeing to make Orders accordingly, as appears by the Minute-Book in the Treasury-Chamber: yet effectual Orders are not made. And when the said Brunskill was hindred of his Reward, as Discoverer of the Abuses, he humbly desired the Duke of Monmouth (then in great favour with your Majesty) to present this following Case to your Majesty, viz. * That Richard Carmarthen discovered to Queen Elixabeth divers great Abuses practised by Officers, in withdrawing the Customs: But the High-Treasurer, his Secretary, and Commissioners of the Customs (influenced by the Officers money upon the purchase of their Offices) connived thereat, and being in great favour with her Majesty, ran down the Discoverer as a Projector, and prevailed with her Majesty to order him to be whipt if he came within the Verge of her Court; so that the poor man was forced, in vindication of his Reputation, to petition her Majesty

* Carmar-
thens Case

Majesty when she was hunting; And although he
 had not any Reports, or Confessions of his Opponents,
 nor any thing to disprove their fictitious Allegations,
 and confirm his Discovery, yet her Majesty adhered to
 his Proposals for her own good, and subjected the
 Officers to his methods; And when he had thereby
 improved the Revenue but 4000 l. per annum, her
 Majesty gave him an Office worth 800 l. per annum,
 which he and his Relations enjoyed from that time
 down to your Majesties happy Restauration. And the
 said Brunskell in the conclusion thereof proposed,
 If the Officers were in like manner subjected to such
 prudent and legal methods as he had proposed, to do
 better Service than Carmarthen had done, or under-
 go the severest Punishment could be inflicted. After-
 wards, the said Brunskell was hindred to pass the
 Patent of the Office of Surveyor, as illegal, im-
 prudent, and impracticable; yet the Opponents
 adjudged it legal, prudent and practicable, for
 their own Creatures, using great endeavours to
 pass two Patents thereof, until your Majesty
 was graciously pleased to stop them. And after
 all this, the said Brunskell's Patent was stoppt, upon
 the Opponents alledging the Revenue to be
 small, and not to be improved without oppressing
 your Subjects; then your Majesty ordered an
 account to be taken how this Revenue was ma-
 naged in Ireland; and although the account clea-
 red the objections, yet the said Brunskell was put
 to

Sir Robert
Sawyer's
Report.

to great expences to maintain the legality of his Patent ; and upon a hearing before your Majesty in Council about *April 1681.* being constituted Surveyor, he petitioned the Lords Commissioners of your Majesties Treasury, That the Officers might be subjected to good methods, to enable him to execute it ; And their Lordships ordering him to draw such as he desired, he stated the same Abuses, and Orders to remedy them in effect, as before-mentioned ; which their Lordships referred to the present Attorney-General, who reported thereon, amongst other things, *That great Abuses were practised by Clarks, and it was fit such Rules should be made, that your Majesty might not be injured ; and the ancient practice was best.* Also, *That the method, as the statute 11 H. 7. cap. 15. doth direct ought to be pursued.* This Report being sent, with their Lordships Letter, to the Judges and Barons, to make apt Orders for your Majesties Service, they met upon it at *Serjeants Inn in Fleet-street,* where the late Lord Chief-Justice *Pemberton* declared in the hearing of the rest of the Judges, (*nemine contradicente*) *That your Majesty had no such Revenue ; That all things stood right and well, and there needed no Orders.* Then the Earl of *Anglesey* stated the Abuses represented by way of Question under his hand, and delivered them, by your Majesties command, to Sir *Leoline Jenkins*, your Majesties
Principal

Principal Secretary, to be referred to the Judges to answer under their hands : But not being answered, his Lordship advised the Surveyor to petition the Lords Commissioners of your Majesties Treasury, that the Officers might answer these particulars following, *viz.* *Whether the grounds and reasons of opposing all methods proposed for the due management of this Revenue, did not proceed from purchasing Offices, because the end and design thereof is to acquire Riches ; and the Officers greatest profit accrue by omitting to record, estreat or levy, or by sparing Fines or Forfeitures, or issuing out Procefs in wrong Names, or deceptious additions, or by making false returns, or by respiting the payment in Accomptants hands, and keeping the Debtors long in Suit or Procefs, or by suggesting or creating great difficulties to persons before admitted to compound, and afterwards making them pay great sums for their Quietus and Discharges ; and in that manner staving your Subjects off from applying to your Majesties Courts. Furthermore, the Officers get little or nothing by Offenders condignly punished upon breach of penal Statutes, nor by Suits expeditiously ended and determined between party and party : so that their greatest Profits arise by Offenders Acquittals, by Suits long delay'd, or pending packing Juries, or the like. Also, when a great deal goes out of your Subjects pockets into the Officers, and little thereof into your Majesties, or any Subjects as a Reward for*

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good

good Service. These things make Offices sell at great rates: But the wise Lord Keeper Bacon terms them the sick state of the Exchequer, in his Book entitled *Refusfitatio*, and cautions Sir John Denham (upon admitting him to be a Baron) to provide against the m

The QUESTIONS.

1 Quest. **W**Hy Offices be sold at dear rates, contrary to the Statute 12 Rich. 2. cap. 2. unrepealed, and the Officers be recorded to be admitted Gratis; and why that Statute is not observed, seeing Cooke in the first part of his *Institutes*, lib. 3. fol. 234 saith, That Justice cannot be administered, unless it be pursued?

2 Quest. Why Justices of Peace be not ordered to pursue the Statute 11 H. 7. cap. 15?

3 Quest. Why Executions be awarded, and Suitors permitted to reap the benefit of your Majesties Justice, before your Majesties Debts, or Profits accruing thereby, be secured, or paid, contrary to the Statutes 33 H. 8. cap. 39. and 25 Ed. 3. Stat. 5. cap. 19?

4 Quest. Why *Actions-Popular*, as well as Informations, be not filed and recorded, before Process issue out, as the Statute 18 Eliz. cap. 5. directs. And why Abstracts thereof, and of all Judgments thereon, be not certified into the Exchequer, to charge the Sheriffs and Officers to accompt for all moneys levied and received thereon, and upon all Compositions thereof? Why

Why Clerks and Solicitors be permitted to practice ⁵ Quest. in Attorneys names, contrary to the Statute 3 Jac. cap. 7. And why they be entrusted with Posteads, who may privately agree with Offenders for your Majesties part, imbezle the Record, and defraud your Majesty thereof?

Why Amerciaments upon Sheriffs Quia non habuerunt corpora, are not set as high as anciently; ⁶ Quest. and why Sheriffs be permitted to assign and give up their Rights to Plaintiffs to sue Bail-bonds, contrary to the Statute 28 Ed. 1. cap. 11?

Whether Fines or Penalties were originally insti- ⁷ Quest. tuted to promote the due administration of Justice, and to quicken the execution of the Law, by punishing vexatious Plaintiffs, Defendants, Officers, and others, doing any manner of wrong, delaying Suits, or putting persons to any needless expence or trouble? And seeing your Majesty is Fons Justitiæ, whether it is not your Majesties business to have all Offenders against Your Self, State. and Subjects; punished, and your Mandates, Rules and Orders obey'd? If it be, why Officers be not appointed (ex Officio) in all your Majesties Courts to take care of your business, as the Statute 2 H. 6. cap. 10. directs; so as Fines and Amerciaments accruing to your Majesty, (upon Rules, Orders, or Process disobey'd) may be set and duly recorded, being now wholly neglected, unless your agrieved Suitors pay them for doing it, who are to have no part or share in the Fines and Amerciaments,

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having

having undergone trouble and charge enough to procure the Order or Process of Courts, and suffered deeply by the tricks and artifices of Under-Sheriffs and Officers: wherefore it cannot in reason be expected that they should voluntarily pay for it? And whether it be not for your Majesties Honour and Profit, that every contempt of your Precepts (for example sake) be taken notice of; and that all such persons as delay or disturb common Right, which every Subject hath to your Majesties due administration of Justice, should be punished, as the Stat. 3 Ed. 1. cap. 28. directs?

8 Quest.

In case prudent or reasonable ways or means to procure your Majesties Profits be used at this day, as alledged, (as the Statute 18 Ed. 3. stat. 4. directs) why are Attorneys (being bound by Oath and Duty to practice without deceit) compelled to carry all Proceedings to the head Officers; also to pay upon signing thereof all the Judges and Officers Fees before the same be recorded: so as the head Officers (who are Attorneys and Practicers themselves) trust not to their performances? And why your Majesty is denied to have the like check upon the Officers and Practicers, so as your Majesty may charge them when they withdraw or conceal any Fine or Profit, by not recording, sparing, or not estreating the same, as the Statute 51 H. 3. & 7 H. 4. cap. 3. directs, that the Officers concealing or withdrawing any of your Majesties Fines or Profits, may be punish'd as the Statute 33 H. 8. cap. 39 directs? And why the Officers of the Plea and English-side of the Exchequer should not be

be under the like sure methods to record and estreat, &c.?

Why Liberties and Claims of Fines and Amerciaments be made and allowed according to the Nomina Villar', or Information received from the Sheriffs; And why Sheriffs Returns, as to Liberties, and their accounts of Fines and Profits levied or issued to them in Process, be admitted for true ones in the Exchequer, seeing they take their Informations from their Bailiffs de bene esse, not regarding whether true or false, (being indemnified if any thing happen amiss;) And how it comes to pass that Liberties are not better distinguished and known at this day, seeing the Statute 13 Ed. 1. cap. 39 directs the Barons to deliver Rolls of Indentures thereof to the Justices in the respective Counties; And why the Statute 12 Ed. 2 cap. 5. is not directed to be pursued?

9 Quest.

Why longer days be generally given to all Sheriffs to accompt and pay your Majesties Fines and Profits, than limited and appointed by the Statute 51 H. 3. or any other Statute?

10 Quest.

Whether Court-Leets be your Majesties Courts of Justice, and the Fines and Amerciaments set, affeered and inflicted in all your Majesties Courts of Justice, do not belong to your Majesty, unless divested thereof by Letters-Patents, or Acts of Parliament; And why Indentures of such Issues, Fines and Amerciaments in Leets, be not made and certified by Sheriffs, as the Statutes 14 R. 2. cap. 11. and 11 H. 7. cap. 15.

11 Quest.

And

And why Bailiffs of Liberties do not accordingly, being enjoined to do all things required of Sheriffs, by the Statute 27 H. 8. cap. 24?

12 Quest. *Why Justices of Peace and their Clerks have wages allowed, without certifying their Estreats under their hands, as the Statute 14 R. 2. cap. 11, directs?*

13 Quest. *Why Fines and Forfeitures (in divers cases) of 40 l. due to your Majesty, be mitigated to 5 s. or 2 d. and the parties in that case made to pay 7, 8, or 9 l. and the poorest Subject 50 s. or 3 l. as Fees for their discharges, against the tenure of that Statute 20 Ed. 3. cap. 2. And why the extortions are not punished by the Statute 3 Ed. 1. cap. 26, and 30?*

14 Quest. *Why your Majesties Subjects upon whom Fines or Forfeitures appear to be vexatiously imposed, and prosecuted by the Officers, may not be discharged by Order of Court; and when they appear to be in terrorem, or to deserve an easie composition, why the parties, after they be estreated into the Exchequer, may not be permitted to compound for the same, by Licenses directed into the Counties, and be admitted to pay what they may be able, and be discharged thereof by an Order, upon producing the Commissioners Receipt, and shewing it to the Court of Exchequer, or in some such like easie and cheap method, without the chargeable formalities of Pleadings, Motions, suing out Quietus, or the like?*

15 Quest. *Why divers innovated and new-invented ways of Proceedings, be received and practised, more particularly*

larly Writs called *ac etiam Bill*, whereby Plaintiffs be encouraged to commence suits, to increase the Fees and Perquisites of Officers, being at liberty to lay their demands as high and vexatiously as they please, to accomplish their ends, by squeezing advantageous Agreements out of the Defendants upon Arrests, and afterwards to deceive your Majesty of your Fines or Duties (ever paid before Process for the Arrest issued out) according to the full Debt or Demand, which hindred Plaintiffs to hold Defendants to unreasonable Bail by exceeding their real demands, or cause of Action; And why the matters and methods proposed, warranted by the Statute 18 Ed. 3. Stat. 4. and grounded upon divers other good Laws and Statutes, be rejected, and other reasonable and good methods, be not proposed and settled, to reform the abuses and sinister Practices of the Courts, as your Majesties Attorney-Generals have reported and advised, for your Majesties Service, and good of your Subjects?

But the Surveyor receiving no Answer thereto, petitioned their Lordships to prescribe such Orders as their Lordships thought fit for your Majesties Service: whereupon their Lordships ordering him to draw such as he desired, he stated the same Abuses and Remedies as he had done before, which were referred again to the present Attorney-General, who reported thereon, ' That
' the Orders proposed seemed reasonable in the
main

Sir Robert
Sawyers
Report.

main to remedy the Abuses, being generally experienced and known. For the Statute 22 & 23 of your Majesties Reign, cap. 22. declareth Officers guilty of many abusive and sinister practices, in withdrawing Fines and Forfeitures, and the Statute 31 of your Majesties Reign, cap. 2. declareth, That Under-Sheriffs, Gaolers and Officers use many shifts to increase their Fees, contrary to their Oaths and Duties, and the known Laws of the Land; which appeareth more fully as followeth, viz. Sir Thomas Robinson, before the present Lord Keeper, when Lord Chief-Justice of the *Common-Pleas*, confessed the fourth Abuse to be true: yet the Officers of that Court are as much at liberty as ever to commit the same; *Ergo*, If Confession (which is accounted as good as ten thousand Witnesses) produce no better effects, what can be hoped for (the premises considered) upon the evidence of one or two Witnesses at chargeable Tryals at Law?

Sir Thomas
Robinsons
Confes-
sion.

Note, The Abuses (before this Discovery) were acted openly and bare-fac'd, as all the Reports, Confessions and Allegations detected, do testify: But now they are done more covertly, to avoid a Conviction by particular proof as the Law requireth; And the more secret, the more dangerous; *Ergo*, prudent to bind the Officers upon suspicion to their good Behaviour;

More especially, considering, that to hinder the said *Brunskell* to be Surveyor: It was objected, He was unfit to have the superintendency of the Officers, lest he should set malicious Informations on foot upon oblete Statutes; and Persons of Quality being joyned with him,

him, the Revenue was represented not worth your Majesties care ; And to hinder Orders, it was declared, that your Majesty had no such Revenue ; also, to ridicule the case, it was called a *Project* : yet the Officers, upon the last hearing before your Majesty in Council, confessed the same to be 12000 *l. per annum*, and the account from *Ireland* proveth it to be 4000 *l. per annum* there, and *England* is ever reckoned fifteen times better. And persons of all Ranks and Degrees in former ages ever esteemed Fines and Penalties to be the only means to avoid the great expence and delay of Suits ; For that reason they not only ordained them, but provided good Laws to make the Officers careful of them, *viz.* 51 *H.* 3. & 7 *H.* 4. cap. 3. direct, That they shall be duly recorded, estreated, levied, and accompted for : The Statute 27 *E.* 1. directeth, That once every year a Baron and a Clark shall go round the Counties, to enquire whether any be concealed or withdrawn : The Statute 18 *Ed.* 3. enjoyneth all reasonable things to be done to procure them : The Statute 2 *H.* 6. cap. 10. provideth, That persons shall be appointed in all Courts faithfully to attend your Majesties business : And the Statute 33 *H.* 8. cap. 39. provideth, That the Officers concealing or withdrawing your Majesties Fines, shall pay three times the value, and forfeit their Offices : And it was found by experience, as

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appeareth

* *Note*, That many mischiefs are experienced, where the Malefactors cannot be discovered; For that reason, when some Attorneys were suspected (contrary to their Oaths and Duties) to deceive the Judges and Officers of their Fees, they prudently subjected all Practicers (without expensive Tryals at Law) to good Orders in every Court, to prevent any Attorneys to deceive them thereof; *Ergo*, Your Majesty may do it to secure your Profits, and relieve your agrieved Subjects, who have no part of any Fines inflicted, and cannot have them prosecuted, nor make their grievances particularly known to the Judges, without great charge and trouble of making Affidavits, Solliciting, Feeing Council and Attorneys; And the worst Actions admitting plausible excuses, it is easie for Officers to escape unpunished; which makes your Subjects sit down under great Oppressions, rather then be at that great expence and trouble to hunt after an uncertain relief: Sir Philip Mountaine, High-Sheriff of Yorkshire, experienced it when he prosecuted Mr. Benson (the Clark of Assizes) for Extortion, & *experientia docet sed nocet*; *Ergo*, It is not only for your Majesties Honour and Profit, but your Subjects Relief, to have the *Green-wax-Fines* effectually managed by subjecting Officers to such methods as will make them do honestly, or be an Evidence to convict and punish such as do otherwise.

appeareth by the said Statute 27 H. 8. * That Suits were delayed, when Bailiffs were not punished by Fines and Amerciaments, because the Lords of Liberties to whom your Royal Ancestors had granted the Return of Writs, had power to remit the same; therefore the Statute nulled those Grants, and restored the Fines to the Crown, as the ancient Estate and Prerogative thereof for administering Justice, and the Statute 27 H. 8. cap. 10, and 13. *Eliz.* cap. 5. prohibit all Conivances to deceive your Majesty of any Fines; and all persons (Officers especially) are punishable for Frauds and Deceits by the Statute 3 Ed, 1, cap. 29. And the experience of former Ages teacheth by the exemplary punishment of divers Judges, by Death, Fines, Imprisonment and Banishment,

when

when they had Fees as well as their Officers, which increased, or decreased, as Suits were delayed, and Proceedings multiplied; and took New-Years Gifts, and Money for Offices; they did not put the Laws in execution against Officers: Therefore the Statutes 18 & 20 Ed. 3. and 12 R. 2. and other good Laws, were made and provided, still in force, to prevent those corruptions; and the Judges ever since have observed this Maxim, *viz.* *That Justice is to be done without respect of persons; Et nemo debet esse sapientior Legibus.* And in the Earl of Devonshire's Case, 4 Jacobi, the Profits of the Crown are resolved to be *Ornamenta Pacis, & Firmamenta Belli*; and of so high estimation, that every body is bound to promote them; also, resolved in Vaughan's Case, 39 & 40. Eliz. That a Fine or Amerciament is due to your Majesty upon every Contempt or Disobedience of Writs or Process: Therefore Judgments were set aside, for omitting to record persons *in misericordia*; and the very small Amerciaments were duly estreated, as appears by Rastall's new *Natura Brevium*, under the title of *Amerciaments*, Beecher's Case in Cooke's Reports; and Original Writs at this day command pledges to be taken for them; and the Citizens of London (farming the *Green-wax-Fines* of your Majesty in the City by a Derivative Power) ever took the small Amerciaments: yet your Majesties Officers

cers neglect them, though bound by Oath and Duty, by force of the Statute 1 *Eliz.* cap. 1. to defend your Rights, and now enjoy divers Fees and Perquisites out of every Warrant of Attorney, and other things, exceeding 200 *l. per annum*, to take care thereof; and if persons were compell'd to find real pledges, as the Law directs, and Amerciaments were truly estreated, *ad finem litis*, it would prevent frivolous Suits, and fictitious Pleadings, to delay Suitors; for Amerciaments have been affeered upon litigious Plaintiffs or Defendants, to 20 *l.* by Neighbours, who best knew the Parties and their Offences, by force of *Magna Charta*, viz. 9 *H* 3. cap. 14. And it's well known, that Fines inflicted fall not upon High-Sheriffs, as pretended, but upon their Under-Sheriff, Bailiffs, or litigious Clients, who must and will rather pay them, than forfeit the penalties of their Bonds, because all High-Sheriffs ever take great and good Security, to indemnifie themselves. And whereas the Farmers of the Law-Duty received little or no satisfaction, when they (by expensive Tryals at Law) had convicted divers Officers and Practicers of Frauds and Concealments: the Surveyor, the premisses consider'd, may expect greater disappointments; *Ergo*,

Felix quem facient, aliena pericula cautum.

It's therefore hoped, that your Majesty will be graciously pleased to follow the example of your Royal Progenitors, as follows: * *Henry the* * Spelman's Glossary. third being informed of Abuses in this Revenue, subjected the Sheriffs to good Orders, and punished *Hubert de Burgh*, his Chief-Justice, for neglect of this Revenue; * And when he assigned over * Rot. Pater. 55, and 56. Hen. 3. his Revenues for payment of his Debts, reserv'd but these Branches of his *Green-wax-Fines* for his own subsistence; * *King Edward* the first allotted * Inter Record. apud Recept. Scaccarii 4 Edw. 1. his Judges Salaries to be paid thereout, to make them careful of it: the Parliament esteeming Fines the only means to expedite Justice, petitioned *Richard* the second, That the Justices might have part of all Fines and Penalties, to excite them to inflict and levy them; whereupon the Statutes 12 *Rich. 2.* cap. 10. and 14 cap. 11, were made for their Wages to be paid thereout; still in force, and observed: And it appears by *Crompton's Jurisdiction of Courts in Banco Regis*, that Judge *Ingham* was punished for reducing an Amerciament to a lesser Sum, tho' in pity to a poor man, because the Stat. 18 *E. 3.* Stat. 4. still in force, prohibits him and all Judges to do any thing in prejudice to the King. And some Historians report, That the Clock-house in Westminster was built with the Fine; and the great Bell hung therein, that the Judges may remember when they hear it Toll, to observe their Oaths established by that Statute. Queen *Eliza-*

* Camden's
Britannia.

* Vernon's
Book.

Elizabeth believ'd *Carmertbens* Information, and countenanced him upon his discovery of Abuses in the Customes, by subjecting the Officers to his methods. * Also King *James* being informed in like manner of Abuses practised in this Revenue aforesaid, constituted a Surveyor thereof, and settled Orders to inable him to perform his Surveyorship, which were hung up in Tables in the *Exchequer*, but are now imbeazelled or lost; for Officers love not lasting Monuments of their Corruptions: and the old Fine Rolls shew, that contempts in *Chancery* were duly estreated, which are now wholly neglected: Also it appeareth by good matter upon Record, that all Your Royal Progenitors have constituted Special Commissions to inquire into Officers Misdemeanors: And that the same were ever reformed upon their Certificate without more adoe; *Ergo*, The reports of your Majesties Council, Judges and Officers Confessions, and the Statutes in force, may well be Credited: That the Abuses are truly stated and fit to be remedied: For in case the Officers be not subjected to prudent methods, there must be many persons to watch them, who will not act unless encourag'd, and assured from Your Majesty, or Treasurers how they shall be Payed, and will eat up a great Revenue to no purpose; because their greatest imployment will be, only to attend the Courts, Assizes, and Sessions

sions, and to go from Office to Office to compare one Entry with another, viewing such things as they find Recorded, Estreated, or Ordered: But if Officers for Bribes or Rewards still neglect to Record proceedings, it's impossible to charge them with what they withdraw; and a voluntary Reformation cannot be expected from them, because they are charged with the wilful breach of their Oaths and Duties. 1st. By the aforesaid Statutes 22, and 23. of your Majesties reign, *cap. 22.* and 31. *cap. 2.* 2^{dly}. By the Reports of your Majesties Council, which say, *That Abuses are actually committed, and ought to be remedied.* 3^{dly}. By several Judgments obtained against them by the Farmers of the Law duty. Lastly, Their Fictitious Allegations disproved to hinder the Reformation proposed plainly, shew their practices bad; and which is worse that they desire to continue therein; *Ergo*, Its prudent to prevent such things as be mischievous and inconvenient, if practiced.

That the Greenwax-Fines (considering the many Contempts, and Delays in Suits at this day) if duly Inflicted (omitting Fines upon Alienations, Heriots and Reliefs) amount unto } 25 1000 l. per Ann.

And

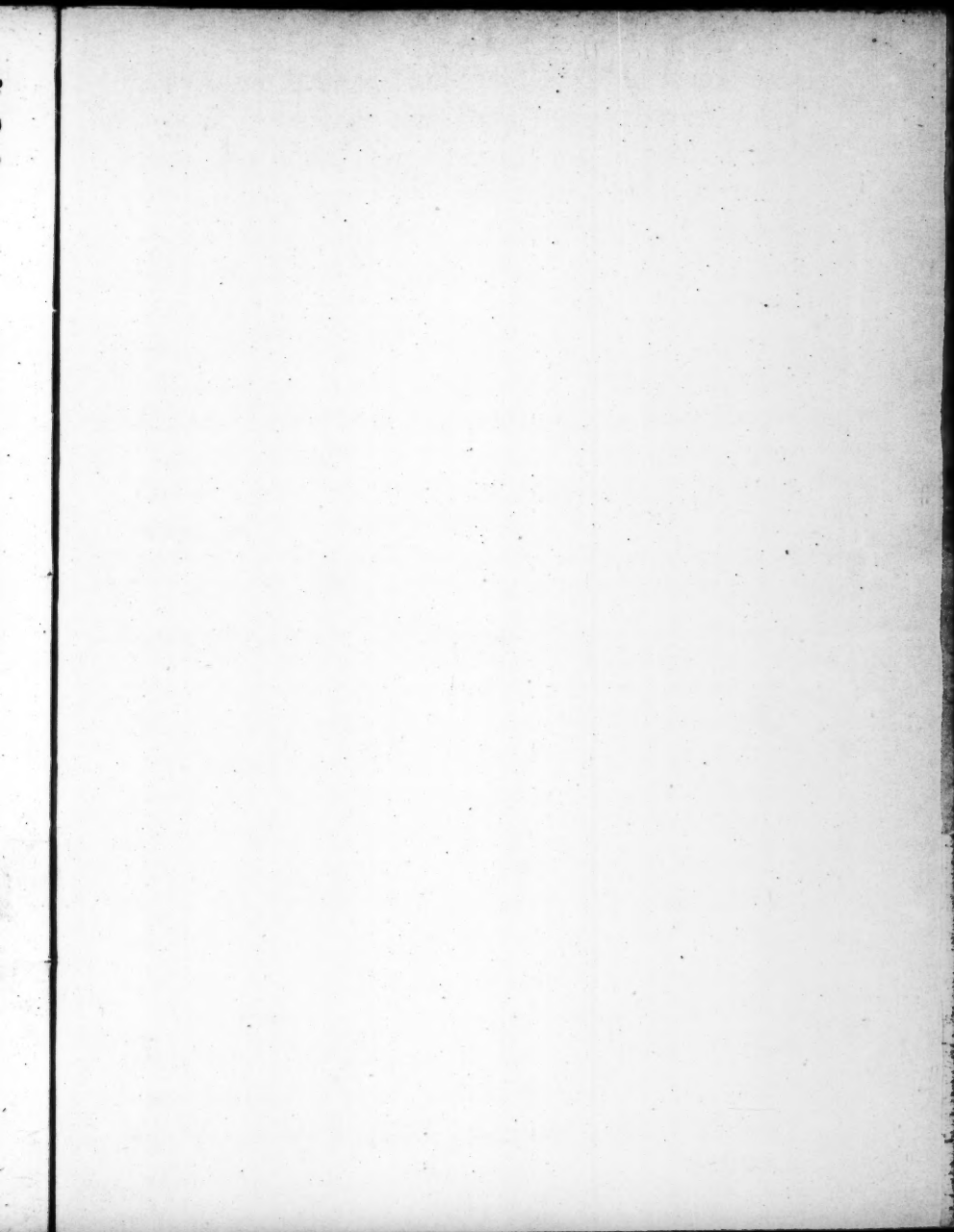
And if Officers for fear of punishment, forsake their bad practices; the benefit accruing to Your Subjects thereby, may tant-amount the Profits falling short.

As to Pre-Fines upon Pleas ^{of} Land.

Note, That this Duty being an Ancient Branch of the *Greenwax-Fines*, falleth under the said *Brunskell's* charge as Surveyor; and more especially as a Commissioner particularly Sworn to promote Your Majesties Revenues: And whereas in the Method its now manag'd, Your Majesty neither gets your Duty, nor grateful acknowledgements in lieu thereof: He in all duty Petitioned to know how much Your Majesty will be graciously pleased to abate of Your real Duty in favour of Your Subjects; that their endearment may proceed out of Your own breast.

Queen Elizabeth by advice of her Council granted this Duty by way of Farm to her High Treasurers, only as a Trust to alter the course, and free her Subjects from the Chargeable and Troublesome Forms of the *Exchequer*: And the like Grants have been made ever since to the High Treasurers, or Lords Commissioners of the *Treasury* for the time being, which expire upon Death or Removal: Therefore Mr *Middleton* and *Brunskel* upon the Earl of *Danby's* Removal

Petitioned your Majesty to be Commissioners in the *Alienation-Office*: But Mr. *Bertue*, Sir *Edmond Turner* and Mr. *Courthope* formerly Deputed by the said Earl, hearing that your Majesty had Graciously Granted their Petition, Petitioned to be heard, suggesting, That in point of Right, they



Note, That Mr. *Middleton* and *Brunskel* by his Grace the Duke of *Monmouth* obtained your Majesty and the Lords Commissioners Promise, to be Commissioners in the *Alienation-Office* upon the Earl of *Danby*'s removal, before Mr. *Bertus*, or others addressed themselves to your Majesty, or applied to the Lords Commissioners; whereas the Earl of *Danby* of his own accord displaced Mr. *Halsey*, and placed his Brother *Bertus* therein.

they ought to be continued ; also, That it was impossible to manage this Duty better then they had done. But these suggestions being disproved and over-ruled, upon a full hearing thereof before the Lords Commissioners in the Treasury-Chamber, their Lordships were pleased to constitute the said Middleton and Brunsell, Bertue, Sir Edmond Turner, and Courthope, joynly in order to improve this Revenue ; and directed the said Bertue, Sir Edmond Turner and Courthope to give their Lordships an account of the annual Product of the Duty, and what Rates and Methods they had observed in the management thereof ; but they gave their Lordships this wrong account, viz, That the Duty, communibus annis, for seven years past exceeded not 3800 l. per annum ; That they had ever rated 100 l. per annum upon Purchases, as 15 l. per annum to pay 30 s. and Settlements and Mortgages lower : So that the Rates, viz. to rate 100 l. per annum, as 20 l. to pay 2 l. (which were joynly agreed on, and settled by their Lordships directions, to improve the Revenue by degrees) were no higher then formerly ; yet the Duty yielded thereby 4000 l. per annum, which by the aforesaid account is a gradual Improvement.

And whereas it was alledged, * *That Mr. Allegation. Middleton and Brunsell had full power by the Commissioners verbal directions to alter the Rates or Methods formerly practiced ; and that the said*

Bertue, Sir Edmond Turner and Courthope were willing to observe any new Rates :

These following Reasons were humbly offer'd to satisfie their Lordships to the contrary ;

Reasons
or Argu-
ments to
disprove
these Al-
legations.

1. The Deputation or Commission from the Lords Commissioners obligeth the said *Middleton* and *Brunskell* to act jointly with the said *Bertue*, *Sir Edmond Turner* and *Courthope*, and to act as they and former Commissioners had done, unless their Lordships should think fit to alter the method, and *litera scripta manent* ; Ergo, verbal Orders and Directions are no good Authority to recede therefrom.

2. By the old method any Commissioner alone may rate and compound Writs out of the Office, and Attorneys may go to whom they please, and it's impossible (unless present at the rating thereof) to know whether they be rated as they ought to be : yet that practice is not to be avoided, because persons passing Fines and Recoveries upon emergent occasions, cannot wait the leisure of particular Commissioners, nor until a *Coram* can meet ; Ergo, While Settlements are rated lower then Purchases, and Mortgages lower then Settlements, the said *Bertue*, *Sir Edmond Turner* and *Courthope* may rate the lowest, and Attorneys will ever go to them whose interest it is to rate low, because an Improvement convicteth them of ignorance, or wilful neglect

of

of their Duty ; and if the Writs by them rated should be stopt until a further enquiry be made, it will give a general disturbance to business, and may be more injurious to persons levying Fines, and suffering Recoveries upon emergent occasions, then waiting until a *Coram* can meet.

3. The Duty is certain, as appears by *Rastall's* new *Natura Brevium*, under the title of *Deceit* ; for that reason the said *Bertue*, Sir *Edmond Turner* and *Court hope*, wanting an Authority to abate thereof, ever make Rent-Charges, Annuities, and small Estates, (which are younger Children and poor peoples whole livelihoods) pay upon all accounts whatsoever after the rate of 10 *l. præ fine* for every 100 *l. per annum* ; which argueth, that all great Estates in Land ought to be rated according to the values appearing by Information, moderate Computation, or otherwise ; For your Majesty is at the charge of a Master in *Chancery* extraordinary, who sits in the Office at this day, to administer Oaths to discover the true values, that your Majesty may not be deceived therein : yet the Oath is never administred. And being informed that Estates are better worth then 1000 *l. per annum*, they often rate them less, but seldom more, then 200 *l.* whereby your Majesty ever loseth 200 *l.* and often more, of the real Duty in *præ* and *post fine* ; yet the Commissioners and Master in *Chancery* certifie under their hands, that

the values are affirmed to be as they rate them. Therefore the said *Middleton* and *Brunskell* proposed upon all accounts to abate 6*l.* 10*s.* in every 10*l.* *pro fine*, and to manage and improve the Revenue thereby 1000*l.* *per annum*, over and above the old Rent, Pensions and Office-charges, taking the overplus of the Profits, or such Rewards out of the Improvement for their management as their Lordships thought fit ; and petition'd their Lordships for a new Commission, or Instructions to rate accordingly. Also, that the said *Bertue*, *Sir Edmond Turner* and *Courthope* might have their Salaries without acting ; or that they might undertake to manage and improve the Revenue, paying the said *Middleton* and *Brunskell* theirs in like manner.

But no Answer was given, because it was objected as followeth :

Allegation.

1. That the said *Bertue*, *Sir Edmond Turner*, and *Courthope* rated as high as ever their Predecessors did ; and that their Predecessors omitted to administer the Oath, because Knights of the Post were procured to under-swear the values.

2. That this Revenue is not improvable, because if Estates be not rated to please your Subjects, they will contrive other assurances ; for low and different rates (encouraging them voluntarily to pass Fines and Recoveries) increaseth the number thereof, and consequently your Majesties Revenue .

3. *That this Duty, upon Complaint in Parliament, may be taken away.*

4. *That this method proposed for the management of this Duty being in nature of Farming, is illegal, imprudent and impracticable.*

These Allegations are disproved, as followeth :

1. It's impossible to know how former Commissioners rated, because Estates may be clogg'd with, or disburthen'd of Rents or Annuities, and may be improved or impaired since they rated them ; and it appeareth by the old Books, that the Oath was frequently administred to ascertain the values, when they distrusted the Attorneys Informations ; which argueth, that former Commissioners ever rated as near as they could to the full values ; and if they omitted to administer the Oath, to prevent the under-swearings thereof, it was done meerly out of design to use other Expedients, to rate better for the Service of the Crown : But the present Commissioners, *contra*, rate great Estates five times lower then the parties confess them to be ; yet certifie, that the values are affirmed to be as they rate them, which is a deceit, and punishable ; For the Judges have resolved in the Earl of Devonshire's Case, *That Stewards so abating of your Majesties Fines certain in Copy-hold-Estates, are liable to pay the full, because your Majesties Revenue is Ornamenta PACIS, & Firmamenta BELLI, and* of

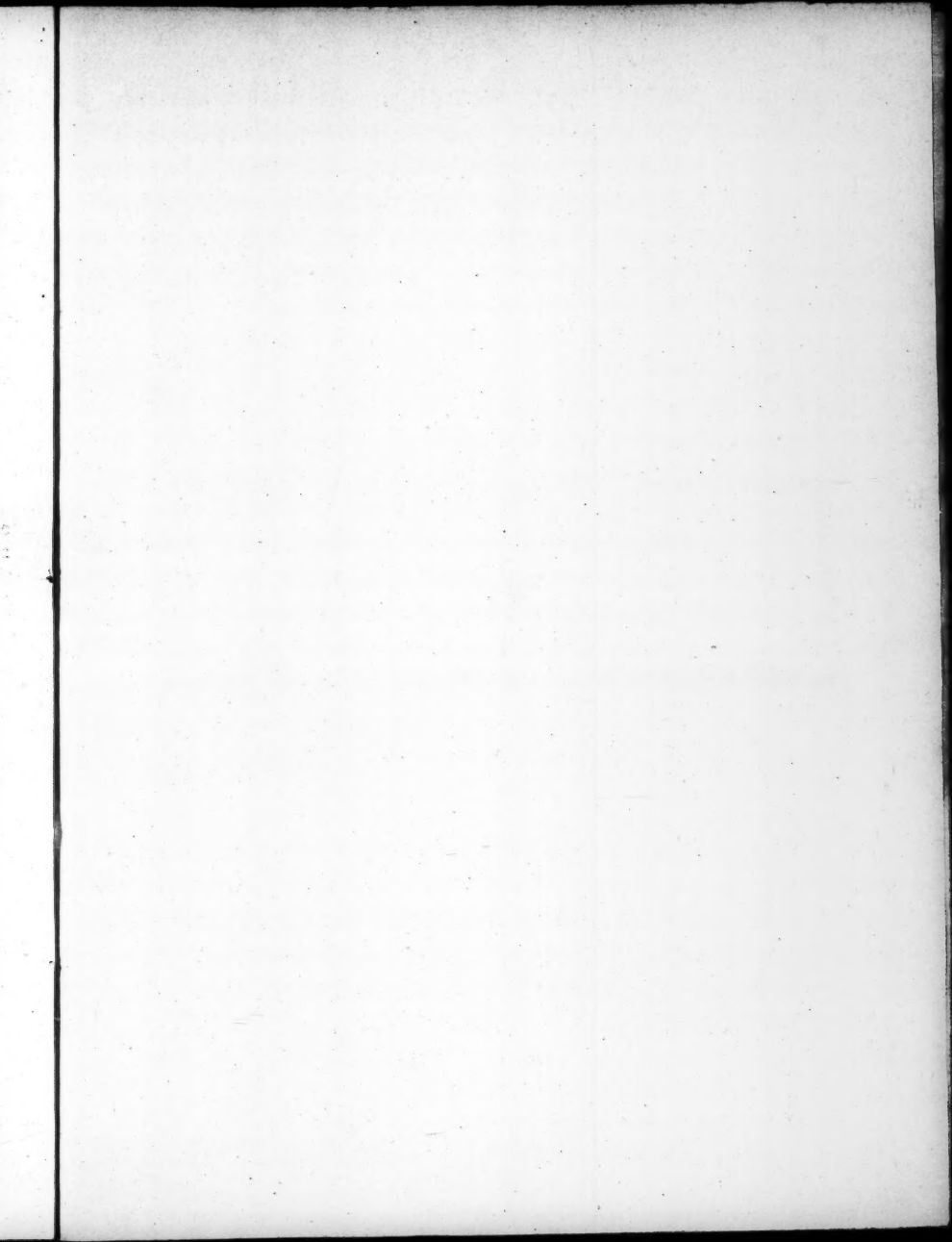
Reasons
or Arguments to
disprove
these Allegations.

of so high estimation, that every body is bound to promote it, Officers more especially, being particularly sworn by the Statute 1 *Eliz.* to do it : For when the old Duties (by abating thereof in favour to particular persons) fall short to defray your necessities, it forceth your Majesty to desire new Supplies, wherewith all your Subjects are generally taxed ; Therefore it's provided by several Acts of Parliament in force, *That your Majesty shall not be deceived of your Fines.*

Fines upon Pleas
of Land,
30000 l.
per annum.

2. Whereas the *præ* and *post fine's* together yield 10000l. *per annum*, though the present Commissioners abate four parts in five of the real Duty aforesaid, that argueth the Duty improvable 300000l. *per annum* at least ; For Fines and Recoveries being the Fund of this Revenue, are of absolute necessity, because no other assurance can bar Joyntures, Dowers, persons after five years *non* claim, or cut off Inralls : So that the Fines and Recoveries which are termed voluntary, are only such as are levied or suffered before the necessity of the Case requires them, to put Estates into a posture to be Sold, Mortgaged, or Settled ; *Ergo*, No regard is to be had thereto, because if the Bargainee be satisfied therewith, your Majesty may be deceived of your Duty ; and if they require further Security, it can but increase the number double ; but your Majesty now gets not so much by Six, as you ought to have upon One.

And



Note, That all Writs of Formedon were Rated and Compounded (as Writs of Covenant and Entry) in the Alienation Office, *Ergo*, Ejectments now allowed to be practiced instead thereof ought to be rated and pay accordingly: And Writs of Covenant and Entry were abundantly more numerous before Serjeant Moor in the Reign of King James contrived a dark way of conveying the Lord Norris Estate by Lease and Release not Inroll'd; that his Friends might not know of it: Whereas all Deeds not Inrolled, and other Contrivances, whereby your Majesty or Chief Lords may be decciv'd of any Ancient Duty, are not only avoidable, but punishable by the Statutes 27 Hen. 8. cap. 10, 16. and 13 Eliz. cap. 5, 3 Edw. 6. cap. 29,

And the said *Bertue*, *Sir Edmond Turner*, and *Courthope* have not produced (and it's to be feared cannot produce) any Writing to shew that they or their Predecessors were ever authorized to rate great Estates to please Attorneys, or at lower or different rates then the Attorneys confessed them to be, because they never abate in Rents certain, or Annuities : For this Duty is as certain and firmly established as the *Custom*, *Chimney-money*, or *Excise*, where the Commissioners never take less then the Duty appeareth by the *Merchant* or *Ale-wives* own confessions, or a prudent Discovery thereof.

3. Your Subjects generally take your Duty to be the whole charge of levying Fines and suffering Recoveries, being ignorant that the Judges, Attorney-Generals, and Officers Fees are more or less according to the number thereof, as follows, viz. upon every Fine 4 or 5 *l.* upon every Recovery with a single Voucher, 5 or 6 *l.* double Voucher 9 or 10 *l.* treble Voucher 15 or 16 *l.* whereof they never abate, tho' the Estate exceed not 40 *s. per annum*, where your Majesty (in pity thereto) taketh nothing, and your Subjects are at great expences, besides the Officers Fees, in travelling to *London*, *Assizes*, & other places, to acknowledge them before the Judges or special Commissioners ; So that the Officers, and the said *Bertue*, *Sir Edmond Turner*, and *Courthope*, are very sensible if

if your Majesty take your full Duty, as they do their Fees and Salaries, it will make your Subjects in Parliament contrive cheaper Assurances, and propose for your Royal Assent to lay your Revenue upon other Funds, and that their Fees, Salaries and Employments abate upon your Majesties acceptance of your Subjects Proposals. Furthermore, Officers and Attorneys clamour of the *Alienation-Office*, because they lose many Fees by the erection and continuance thereof; But if the Subjects were re-minded how Officers oppressed their Fore-fathers, and enrich'd themselves with formal Pleadings, proving the values of Estates upon Oath, accounting and suing their *Quietus* out of the *Exchequer*, whereof they are freed by your Majesties gracious continuance of the *Alienation-Office*, it will dispossess^{the} of the prejudice entertained against it, by the crafty insinuation of such persons; so that the Subjects will return your Majesty thanks for continuing it, and petition to be freed in like manner from the charge of compounding other Fines, and forfeited Recognizances. It is also very apparent that Officers ill management of your Duty causeth many complaints thereof: As for instance, your Subjects in *Wales* complain, because they pay more to the Farmers than their fellow Subjects here pay to your Majesty; and younger Children and poor people in all other parts of your Kingdom com-

complain that even right is not done to them, (as the Statute 20 *Ed.* 3. directeth) because their Rent-charges, Annuities, and whole Estates, pay after the rate of 25 *l. per cent*', and great Estates pay but 5 *l. per cent*' at most; and the rating great Estates higher or lower upon different occasions; (as for instance, Settlements lower then Purchases, and Mortgages lower then Settlements) maketh your Subjects think the Duty Arbitrary, who are apt to blame their Attorneys if their Fines be not low: Because all your Subjects naturally love cheapness, and to be freed from Duties; therefore Attorneys wrangle with your Majesties Commissioners for an abatement to please their Clients; which being obtained, is rather attributed to the Commissioners kindness then your Majesties bounty: so your Majesty neither gets your Duty, nor grateful acknowledgments in lieu thereof; whereas the full Duty (which grateth hardest) upon Rents, Annuities and small Estates, and the Customs (which are as great clogs upon Trade, as this Duty can be upon Land) are paid without wrangling with your Majesties Commissioners, because your Subjects know before-hand what they have to pay. Therefore the said *Middleton* and *Brunskell* petitioned their Lordships to know your Majesties pleasure, supposing the Estate appeared to be 100 *l. per annum*, according to a moderate valuation, where

H

your

your Duty of *præ fine* is 10 l. how much your Majesty would be graciously pleased to abate thereof? that they might take measures to rate proportionably thereto in all cases where the values will bear it, that your Subjects endearment may proceed out of your own Breast.

4. That as the Duty is granted in Farm in *Wales, Durham, Lancaster, and Cheshire*, where the Grantees (not limited to abate) may take the full Duty: it may be granted in Farm or by way of Management in all other parts of your Kingdom, as proposed. And to let their Lordships see that it was not a fond Opinion of their own which made them so solicitous for a better Commission, or Instructions, humbly presented their Lordships with these following Opinions,

The Attorney-General's Opinion.

Where the certainty appeareth what your Majesties Fine is, the Commissioners cannot abate thereof, they having no such power by their Commission.

And in case the method observed by former Commissioners be found greatly to your Majesties prejudice; others,

thers, more beneficial for your Majesty, may by Law be prescribed.

I suppose Fines and Recoveries are seldom levied, but where the necessity of the Case requires them: neither do I know how they can be avoided, or supplied by any other sort of Conveyance, to secure Purchasers, Mortgagees, &c.

R. SAWYER.

Mr. WARD's Opinion.

If your Majesties Duty be certain in it self, I cannot see how the Commissioners, without an Authority mediately or immediately from your Majesty, can lessen or abate it.

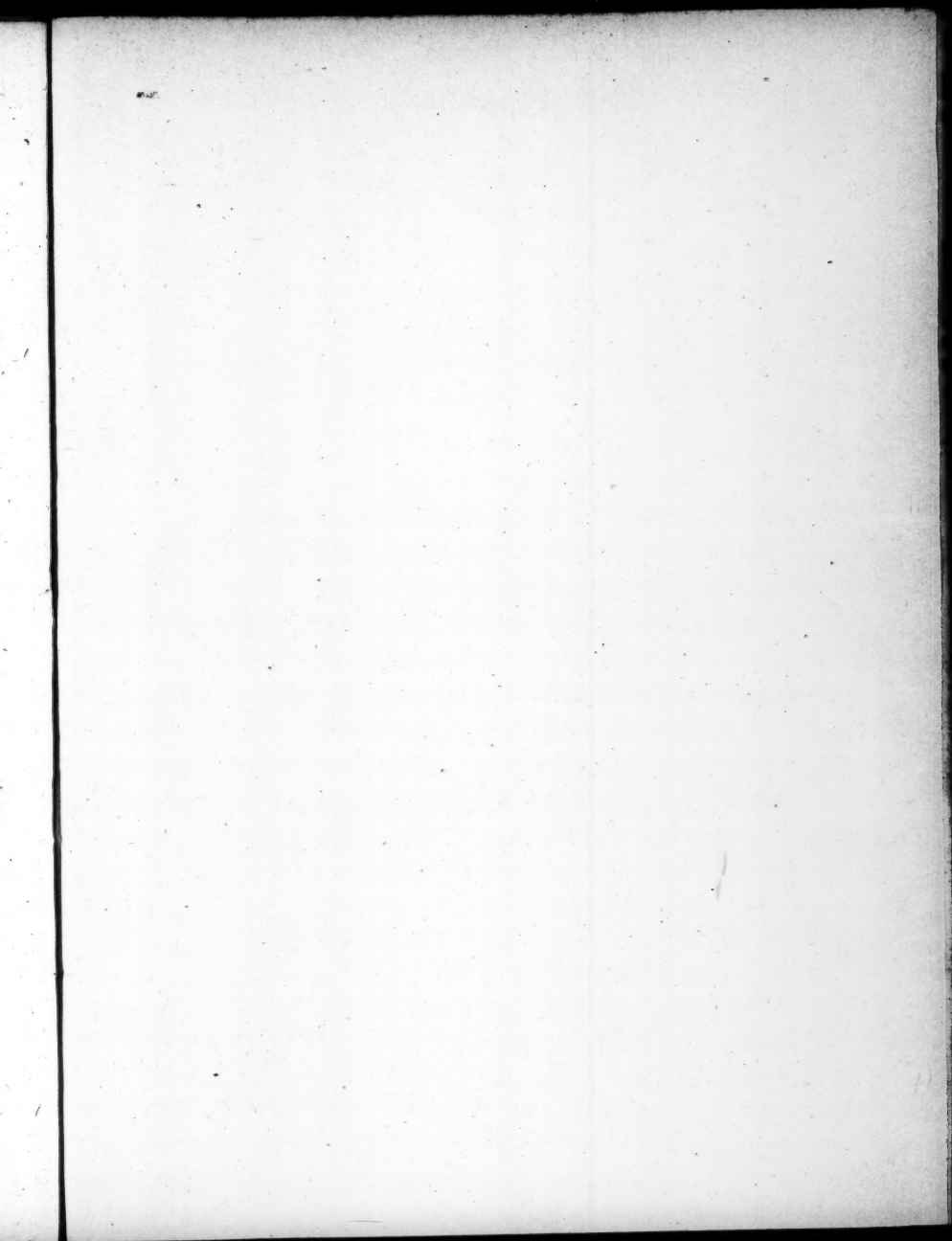
Every person entrusted in your Majesties Revenue is answerable to your Majesty for the execution of his Employment; and by Suit in the Attorney-Generals name being con-

victed of any Fraud, or wilful breach of his Trust, to your Majesties damage, is liable by Law to make the same good.

E. WARD.

But the Lords Commissioners of your Majesties *Treasury* prescribing no better methods, nor altering their Deputation or Commission; and the said *Middleton* and *Brunskells* Salaries being stopt to defray the Lady *Plymouths* Pention in Arrear : And the said *Bertue*, Sir *Edmond Turner*, and *Courthope* being permitted to receive their Salaries, besides one hundred Pounds *per Annum* a piece for extraordinaries, which the said *Middleton* and *Brunskel* never had, though as well Intitled thereto as the Old Commissioners : The said *Brunskell* appealed to your Majesty in Council, whether his or the Old Commissioners Salaries, (the premisses considred,) ought to be stopt : And Petitioned your Majesty for a new Commission or Instructions, because he cannot with safety observe the method of former Commissioners nor recede there-from ; and by their method, it's impossible to improve this Revenue : So that the said *Brunskell* is wholly incapacitated to act, or to receive his Salary in Arrear, until your Majesties Royal pleasure be declared therein.

As



Note, That all Reliefs and other Services incident to Tenures in Soccage, are fully saved to your Majesty by the Statute 12 of your Majesties Reign *cap.* 24. which includeth Pecuniary Services saved to your Majesty by the Statute 32 Hen. 8. *cap.* 1. upon every alteration of the Freehold by Will or otherwise: And private persons having a remedy at *Common Law* for their Customary Fines permit not their Customary Tenants to deceive them thereof, *Ergo*, your Majesty may avoid all by wayes or innovations now practis'd to your Majesties prejudice.

Note, That Mr. Bertue, Sir Edmond Turner and Mr. Courthope have received more in Extraordinaries, than will pay the Arrears of the Lady *Plymouths* Pension, and Mr. *Middleton* and *Brunskel's* Sallaries: And the present Lords Commissioners were so far from knowing or allowing their Extraordinaries, That they were angry thereat when at first acquainted therewith.

As to Heriotts and Reliefs.

Sir William Jones, Sir Robert Sawyer, and Sir John Sympson have given their Opinions: That Herriots and Reliefs are fully saved in the Crown by a Pro-visoe in the Statute 12 Car. nunc cap. 24. Heriotts & Reliefs 4:000 l. per Annum
 And being computed in Ireland at 3000 l. per Annum; England is ever reckoned 15 times better.

Therefore in case your Majesty do not think fit to take them; the Discoverer being bound by Oath and Duty to promote your Majesties Revenues; may hope that your Majesty will not blame him for informing your Majesty thereof.

Note, That this Branch of Your Majesties Revenue was Green-wax, and falls under Mr. Brunskell's care as Surveyor thereof.

Fines upon Pleas of Land ———	{	30000 l.			
Heriots and Reliefs ———	{	45000 l.	}	per Ann.	
Sum Total ———	{	75000 l.	}		

As to Offices.

The Officers ever since October 1674. have not stuck to say or do any thing as time and occasion serv'd, as appeareth by their many Allegations disprov'd as aforesaid; whereby they have put Mr. Brunskell and his Partners to excessive Trouble and Charge with many Coppies of Records

cords, References, Reports and Hearings to defend your Majesties Rights to the *Greenwax-Fines*; which are declared by several Statutes as aforesaid, to be your Ancient Estate and Prerogative : Because *Præmio & pena fulciuntur Regna* : But *Fulminatio sine executione*, can do no good : And it's an Infallible Axiom, to defend your Majesties Prerogative, is the best way to secure your Subjects Estates and Liberties : But Officers (who would be thought wiser than the Laws) alledge against this known maxime, being a fundamental point in Law, (*viz.*) *Nemo debet esse Sapientiore Legibus* : That Fines inflicted will ruine High Sheriffs, not out of any kindness to them, but support the Under-Sheriffs indirect practices and their own Profits, because Fines inflicted (expediting Suits) lessen their Fees, & not only pull down the Selling Rates of Offices, but extirpate the Corruptions proceeding there-from : For that reason Buying or Selling of Offices, is stated as the first Abuse in the Earl of *Anglesey's* Questions : And though it were better, that Offices were bestowed, *ex merito gratis* : Yet it's well known, when your Majesty gives, your Great Ministers Sell them, or otherwise it costs your Subjects as much, or more, in Gratifications, then the Purchase, as hereafter proposed will amount unto : It's therefore proposed,

That

That as the present Officers have paid 7 or 8 years value for their Offices, they may continue therein; and when void, they may hereafter be supplied with experienced Clerks, who may termly pay to your Majesty, in nature of First-fruits, one Moity or Quarter-part of the Profits as they arise, for such term of years as your Majesty shall think fit : And as Commissioners are appointed to dispose of Ecclesiastical Livings, so Commissioners may be appointed to take care of your Majesties Profits arising thereby, who may be enjoined under great Penalties to bestow Offices accordingly.

2. That the Proposals extend not to any Office where the Salaries are paid by your Majesty, but such only where the perquisites are paid by Suitors, as incident or appendant thereto by Right.

3. That an exact Table of Fees adjusted by the ablest Officers, and Records, due and belonging to every Office, may be hung up in the respective Offices ; and while Officers behave themselves well, (though deputed but during pleasure) they may in no wise be displaced.

Reasons

Reasons or Arguments humbly offered to influence your Majesty rather to dispose of Offices in the method as proposed, then to permit the Judges to sell them, as now.

1. This method (requiring no ready money) will be satisfactory to all Loyal Subjects, because the Sons of such as were impoverish'd by the late intestine Rebellion, will be enabled to obtain Employments, being now incapacitated to buy, or gratifie such as procure them Grants thereof. Furthermore, it will prevent Extortion; for when Officers deposit great Sums of Money upon purchase, or admition to their Offices, it inclines them to indirect practices to re-imburse themselves.

2. The due administration of Justice depends much upon the skill and honesty of Officers: As for instance, most Offences beingailable, it's at the election of Criminals bailed, whether they will stand Tryal, or forfeit their Recognizances; and the Law consisteth but of two parts, viz. Judicial and Executive: Therefore if Officers, for Bribes or Rewards, withdraw Recognizances, they thereby frustrate the Judicial part,

3. If the Officers entrusted to see Proceedings right and duly recorded, by ignorance, corruption

or negligence, draw wrong Bills or Petitions, Declarations, Pleas, Decrees, or Judgments, in Law or Equity ; or neglect to record, or mis-enter the same: it giveth great disturbance to Suitors to have the Errors rectified ; and the non-amendment thereof in due time giveth litigious Adversaries opportunity upon Writs of Error to set aside or null all Judicial Proceedings thereon. It was found by experience, when the Judges had divers Fees, as well as their Officers, which increased or decreased as Suits were delayed, and Proceedings multiplied, and sold Offices at dear rates, that they placed men therein for Lucre, without merit, and acted or countenanced such things as were contrary to the Laws and Statutes in force, for which some Judges were put to death, divers fined and suspended, and others were banished, as appeareth by ancient Record and History. Also the Attorney and Solicitor-General did not then prosecute and convict the Officers guilty of Misdemeanors, because their own Practice and Profit, as private Councillors, depended upon the favour of the Judges, and indearment of Officers ; therefore the Salaries of the Judges and Kings Council were enlarged, and made certain ; For it's enacted by the Statute 18 & 20 Ed. 3. *That the Judges shall not take Gifts, Fees, Robes or Rewards of any but your Majesty ;* and the Oath of a Judge, thereby established, enjoyneth the

observance thereof, because their Salaries were then made certain, which have been since further enlarged. It's also further provided, by the Statute 12 R. 2. *That the Judges and great Ministers shall not sell Offices.* Also, by the Statute 3 Ed. 1. cap. 26, 27, and 30. *That Officers shall not commit Extortion. That the Subjects (cap. 28.) shall not be disturbed in their just Rights. That Deceit (cap. 29.) shall not be practised :* yet the Lord Keeper and Judges at this day take Fees of Suitors upon divers Proceedings, and not only sell Offices at 7 or 8 years value, but wink at their Officers selling thereof, and take great Sums of Money upon their Surrenders and Admissions, and New-Years-Gifts ; and the Attorney and Solicitor-General seldom or never prosecute popular Actions, Informations, or Pleas of the Crown, unless the agrieved Subjects fee them to do it.

Allegations

1. *That your Majesty may dispence with these Statutes.*

2. *That Offices appear to be the Judges perquisites, by an Order of the House of Lords about the year 1641.*

3. *By the resolutions in Mitton's Case.*

4. *By the Statutes 5 & 6 Ed. 6. which saveth a Power in the Judges to do as their Predecessors, who before the making of that Statute, and ever since, sold Offices.*

These

These Allegations are disproved, as follows: A Uegations

1. All Sages of the Law, writing of the Office of a Judge, agree the observance of the aforesaid Statutes to be a material part of the Office and Duty of a Judge, because these Statutes, and divers other good Laws and Statutes, are grounded upon the Statute 9 H. 3. cap. 29. which saith, *Nulli vendemus, nulli negabimus, nulli differemus Justitiam*: And the Lord Chief-Justice Cooke, before Offences were so generally Bailable, experimentally declarerh, *That Justice cannot be duly administred, if the Statute 12 R. 2. prohibiting the Judges to sell Offices, be not observed*; because, as the Execution, which is the life of the Law, dependeth upon the honesty of Officers, it's *violenta præsumptio*, that Knaves, whose Pockets are better lin'd then honest mens, and consciences not so strait-lac'd, will ever give most for them, who seldom stick at any thing, to re-imburse and enrich themselves; and it's a Maxim, *That your Majesty can do no wrong*; and Maxims are fundamental points in Law: It doth not appear by any matter of Record, that your Majesty or Royal Ancesters ever dispensed therewith; but it appears that Pardons have been frequently granted after the Fact committed, by your Majesty and Royal Progenitors special Grace and Favour.

Reasons
or Argu-
ments to
disprove
these Alle-
gations.

2. The Orders in the House of Lords have not the Royal Assent thereto; *Ergo*, Not conclusive to your Majesty.

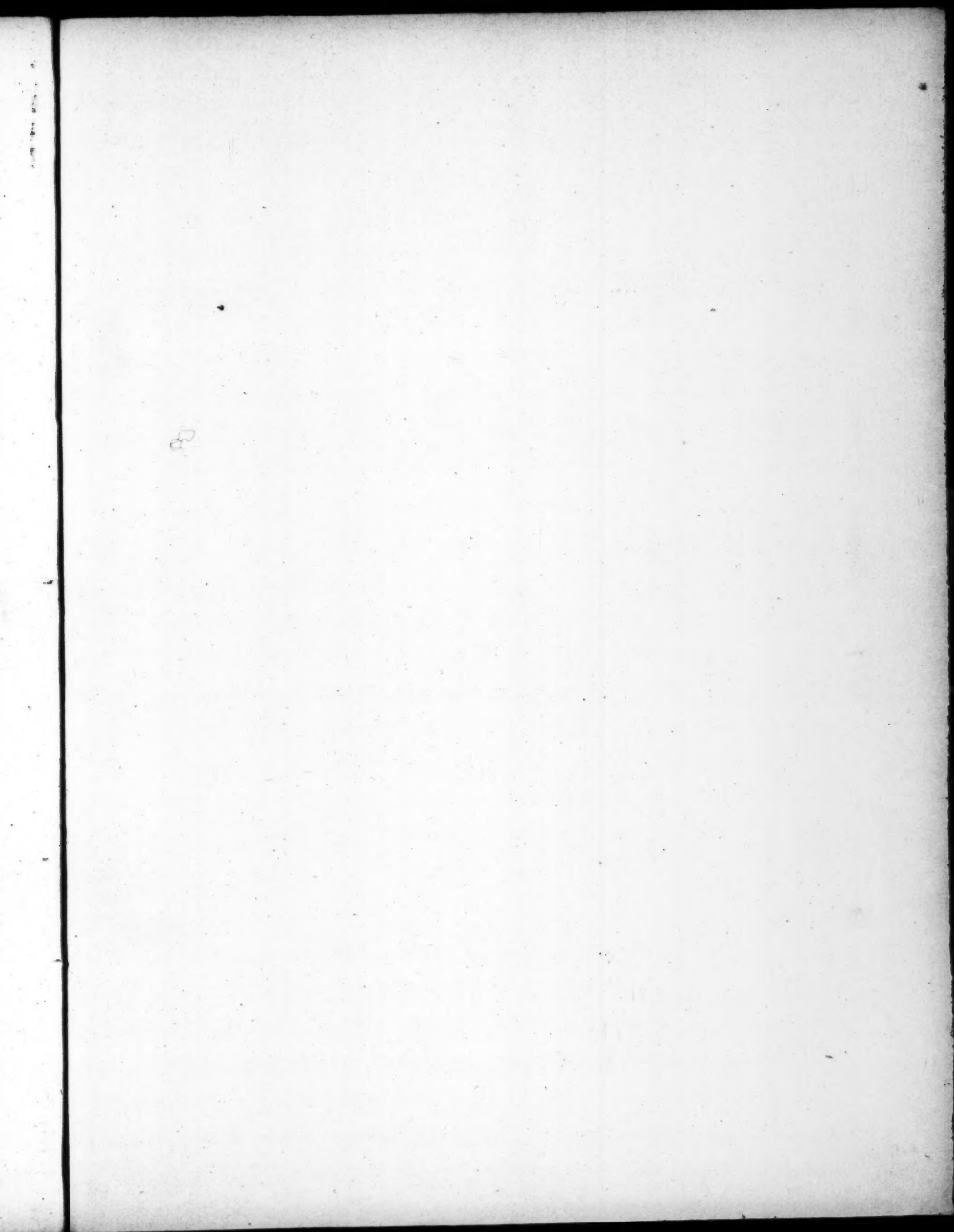
3. The Judges cannot apply *Mitton's Case* to themselves; for the Office of the County-Clark is adjudged to be in the disposal of the High Sheriff, because the High-Sheriffs Office is altogether executive; and the County-Clarks being their menial Servants, or Deputies, cannot sue for Fees, nor act any thing, but in the High-Sheriffs name: So that the High-Sheriffs being punishable for their Deputies mis-feizance, are forced to take Security to indemnifie themselves. But the Office of a Judge is altogether Ministerial, and the Law doth not punish Judges if Officers fail in the execution of their Office, unless they make themselves parties privy and consenting, wherefore they never take Security of Officers to indemnifie themselves; for Officers stand or fall by their own good or bad Behaviour, because the Law reposing a Trust in the Judges to punish Officers Misdemeanors, took away the Officers dependance on them, that the Judges might not flag therein.

4^{ly}. The Proviso, or saving in the Statute 5, and 6. Ed. 6. (*viz.*) *That the Judges may do as formerly.* Doth not impower the Judges to sell, because the Statute of 12 Rich. 2. prohibiting them, is not thereby repealed; for all the
Records

Records ever since 12 *Rich.* 2. Testify, that Officers are admitted to Offices, *ex merito gratis*: And the Law rejecteth all Pleas, Aligations, or Averments, against matter upon Record: And whereas the said *Statute* 5, and 6 *Edw.* 6. saveth a Power to all persons seized in Fee to sell Offices; your Majesty being so seized, may legally do it, But the Judges cannot: And as your Majesty constituteth all Spiritual and Temporal Judges; it argueth, that your Majesty may appoint the Inferior Officers: Because *omne majus trahit ad se minus*; and there is not the least mention of Inferior Offices amongst all things Granted to the Judges or their Predecessors: Who 4 *Jacobi* have resolved in the Earl of *Devonshire's* Case, That the general words in Letters Patents, whereby they challenge Inferior Offices as Perquisites being void, cannot create a right in Law to devest your Majesty thereof: For the *Statute* 1 *Hen.* 4. cap. 6. provideth, That such Offices as be not expressly named in Letters Pattents shall not pass out of the Crown, The Great Chamberlain lately challenging a right to dispose of an Inferior Office, as the Judges do; His Lordships usage, upon the hearing and debate thereof before your Majesty in Council, was adjudged void; And Sir *William Jones* Attorney, and Mr. *Finch* Sollicitor General, and Mr. *Keck* of Council for the Patentee argued in behalf of your Majesty; That your Ma-

jesty

jesty might determine the Lord Chancellor or Keepers
 long usage of disposing of Benefices of small value :
 And all usages of that kind, although they were im-
 power'd to do as their Predecessors had ever done, who
 without interruption, had disposed thereof ; because
 their usage began not of right, but barely by permis-
 sion of your Royal Ancestors to free themselves from
 the trouble of such small concerns : And the late
 Lord Chancellor agreed thereto ; and your Ma-
 jesty was graciously pleased to make this remar-
 que thereon ; That Offices which at first were not
 worth any thing, are now become very considerable :
 And instanced the Cofferers Office for one, and
 declar'd ; That your Majesty altered the usage of your
 Household Servants stepping into Employments succes-
 sively ; because your Majesties Happy Restauration
 was formerly adjudged, to be in nature of a Conquest ;
 and your Majesty was thereby impowered to do it ; And
 this case falleth under the same circumstances,
 For many Offices, which at first were not worth
 any thing, are now become more considerable
 then the Judges Salaries ; as for instance,
 the Prothonatorys Office in the Common-Pleas,
 Clark of Assizes for Yorkshire, cum multis aliis,
 which may^d be executed by Deputies, as well as
 the Custos Brevium, Chyrographers, or Sir Robert
 Henleys Office, wherewith your Majesty may gra-
 tify good Services, and free your Revenues from
 Pentions, to the great satisfiour of your Loyal
 Subjects.



Note, That your Majesty and Royal Progenitors have at pleasure discontinued the Judges and Officers usages: As for instance, particular Grantees now enjoy the Fees for making *Supenas* in *Chancery*; and like instances may be given in all other your Majesties Courts to invalidate the Judges usage: Moreover, the Earl of *Devonshire* was Particularly impowered by a Privy Seal; and generally by the words in the Grant of his Office; To dispose of old rusty Guns and Armour as his Predecessors had done, who without Interruption Sold and Disposed thereof by a long usage, being eighty years from the Erection of the Office by King *Henry* the 8th. to the 4th. of King *James*, when the Judges resolved it void, upon a presumption, That it began at first upon Usurpation: Because it did not appear by Record, That such things were annexed as Fees to his Office: Ergo, the usage of Selling Inferior Offices (being not annex'd to the Judges places as Fees to be Sold) cannot be good: For their own Records declare Officers *Secundum Consuetudinem Curiae*, to be admitted *gratis*: And persons in their own Right cannot Legally transfer a greater Estate than they have, Ergo the Judges *durante bene placito* cannot convey Inferior Offices to persons *durante bene se gesserint*, unless they acknowledge themselves to be in nature of Stewards of Copy-hold Courts, and then they own the Right transferred and Duties paid upon Admission to be your Majesties as chief Lord. Yet the Lord Chief Justice *North* hindered divers persons that for good Services had obtain'd your Majesties gracious Promise of the Office of Clerk of the *Treasury* in the *Common-Pleas* to pass their Patents; suggesting it to be a Perquisite incident to his Office: Whereas particular Grantees had executed it by sufficient Deputies without intermission above 90 years, and his Lordship then paid 500 *l. per annum* as his late Predecessors had done to *John* Lord *Berkley* the Patentee, which was an acknowledgment of your Majesties Right: And it appears, that Offices fall void upon the change of Chief Justices; because *Pemberton* removed *North's* Agent from being Clerk of the *Treasury*; and the present Chief Justice *Jones* not only displaced *Pemberton's* Agent, but set aside one Mr. *Adderley* who bought a *Prothonotaries-Office* for 6000 *Guineys*, whereby your Majesty may see clearly, that Offices (when ever your Majesty is pleased to dispose thereof) will be acceptable Rewards to persons for their good Service to free your Revenues from Pensions.

5ly. Whereas the present Officers by buying or selling Offices, have forfeited both Money and Offices; it will indear them to be pardoned and continued therein upon their good Behaviour; and when their dependance is absolute upon your Majesty, they will have a greater regard to your Majesties business and Profits.

6ly. That private persons who hold Courts of Record in Fee by a derivative Power from your Majesty, now sell Inferior Offices by force of a Proviso in the *Statute 5, and 6 Edw. 6:* and permit not their Stewarts or Judges to meddle with the disposition thereof, who have as great Power within their Jurisdiction, as the Judges have in the Superior Courts, *Amulto fortiori*, your Majesty being Primitive, and seized in Fee may do it.

*The Annual Profits and Perquisites of
Offices throughout the Kingdom,
without reckoning the Salaries
paid by your Majesty, appear'd by
a particular thereof to amount unto* } 109714 l. per Ann.

These Profits will be in a nature of a Coppyhold Estate, where the Fines are paid by Tenants, upon Death Surrender or Admission.

*The Greenwax-Fines, Heriots, Reliefs, and Fines upon Pleas of
Land, amount unto* } 435714 l. per Ann.

The

The said *Brunskell* having spent 2000 *l.* and upwards of his own Estate in maintaining your Majesties Prerogative against all opposition, being encourag'd by the Reports and Opinions aforesaid ; Humbly and in all Duty appealed to your Majesty for his Reward, as your Majesties Council had advis'd : And whereas it was al-
allegation. alleadged, That the *Greenwax-Fines* and *Offices* were over-valued ; and that the said *Brunskell* hath not expended so much as his Partners ; These Aligations are fully disprov'd as follow-eth.

Reasons
 or Argu-
 ments to
 disprove
 these Ale-
 gations,

1st. The Annual Profits and Perquisites of *Of-
 fices*, taking one with another, are not valu'd so high as they are sold ; *Ergo*, If over-valued ; The Judges and Officers are more blamable for selling and buying at those rates, then the said *Brunskell* for valuing them accordingly.

2^{ly}. The *Greenwax-Fines* are rather under, then over-valued, considering how private Suits are delay'd, by retarding and multiplying proceedings, insomuch, That some Lawyers ingeniously confessed lately in the *House of Commons* ; That they had been so long in old Causes, with many cross Proceedings, that they knew not whether they were for Plaintiffs or Defendants : Which proceed-eth from the fifth Abuse, as herein before stated ; For if that Abuse were remedied, as proposed, it would satisfie your Agrieved Subjects to see
 their

their litigious and offending Adversaries con-
 dignly punished as the Law requireth: And if
 Officers or others, to avoid the punishment of
 Fines inflicted, give over their bad practices,
 whereby they spin out Suits in Law and Equity
 7, or 8 years; Then your peaceable Subjects
 will be freed from great Oppression, whose in-
 dearment in that Case will tant-amount the Pro-
 fits falling short.

3ly. Upon stating the Account of the Money
 expended in Co-partnership; It appear'd, That
 the said *Brunskell* hath expended his equal, and
 proportionable part with the late Earl of *Yar-*
mouth, and more then any other of his Partners,
 in procuring and passing of your Majesties
 Letters Patents.

It's very remarkable, That the said *Brunskell*
 upon every hearing weathered all opposition,
 when the Judges and Officers were esteemed
 parties interested to oppose him, Because their
 Reports, Opinions and Confessions were then ad-
 mitted to invalidate their Allegations. But the
 late Lord Chief Justice *Pemberton* (having de-
 clared, That your Majesty hath no such Reve-
 nue, *Et nescit vox missa reverti*) unwilling to
 hear himself disproved before your Majesty in
 Council; (*Quia qui quæ vult dicit quæ non vult*
audiet) moved your Majesty at the last hearing;
 That the Judges might not be put to argue and debate

the Case with Mr. Brunskell or a private Lawyer; but might give their Opinions to your Majesty as Judges: Whereas they were dipt at the same time in selling Offices, and taking Gifts, Fees and Rewards of other then your Majesty, *Et nemo sui rei debet esse Judicem*; and had formerly refused to Answer the Abuses (charged upon them by the Earl of Anglesey's Questions) according to your Majesties pleasure once signified to them: And whereas the said Brunskell to make his Case as short as he could, did not insert therein divers Reports and Opinions of his Opponents, nor how they were particularly disproved and over-ruled upon many Chargable Hearings and Debates thereof, which are also omitted upon the like account in this Vindication. And whereas many of the Lords of your Majesties most Honourable Privy Councel declared, after they had seriously read and consider'd of the Case, *That the said Brunskell had suffered many and great wrongs*; And the length of the Case being occasion'd by the Potency of his Adversaries; The said Brunskell might reasonably expect That his Case, and nine years unwearied Industry, would rather have produced Pity and Commpassion, then Reproof; but being disappointed therein, was discouraged to say what he designed to speak in his own Vindication.

A particular of some *Statutes*, which for Brevity sake was omitted amongst other things in the last *Case*.

THe Statute 6 Ed. 1. cap. 14. That the Treasurers and Barrons shall see *Amerciaments* Levied to your Majesties use.

10 Edw. 1. Stat. Rutland, That Sheriffs and Bailiffs may not withdraw your Revenues, by returning Debtors to have nothing, or not to be found: It's provided, That the Treasurers or Barons shall cause particular Rolls of *Estreats* to be made and delivered to Faithful and Coircumspect men to inquire thereinto.

13 Edw. 1. cap. 50. Provideth, Where the Law faileth of a Remedy, It may be supplied by your Majesties Writ, That none may depart without relief; Ergo, No need of a new Act of Parliament to impower your Majesty to secure your Profits and relieve your Subjects.

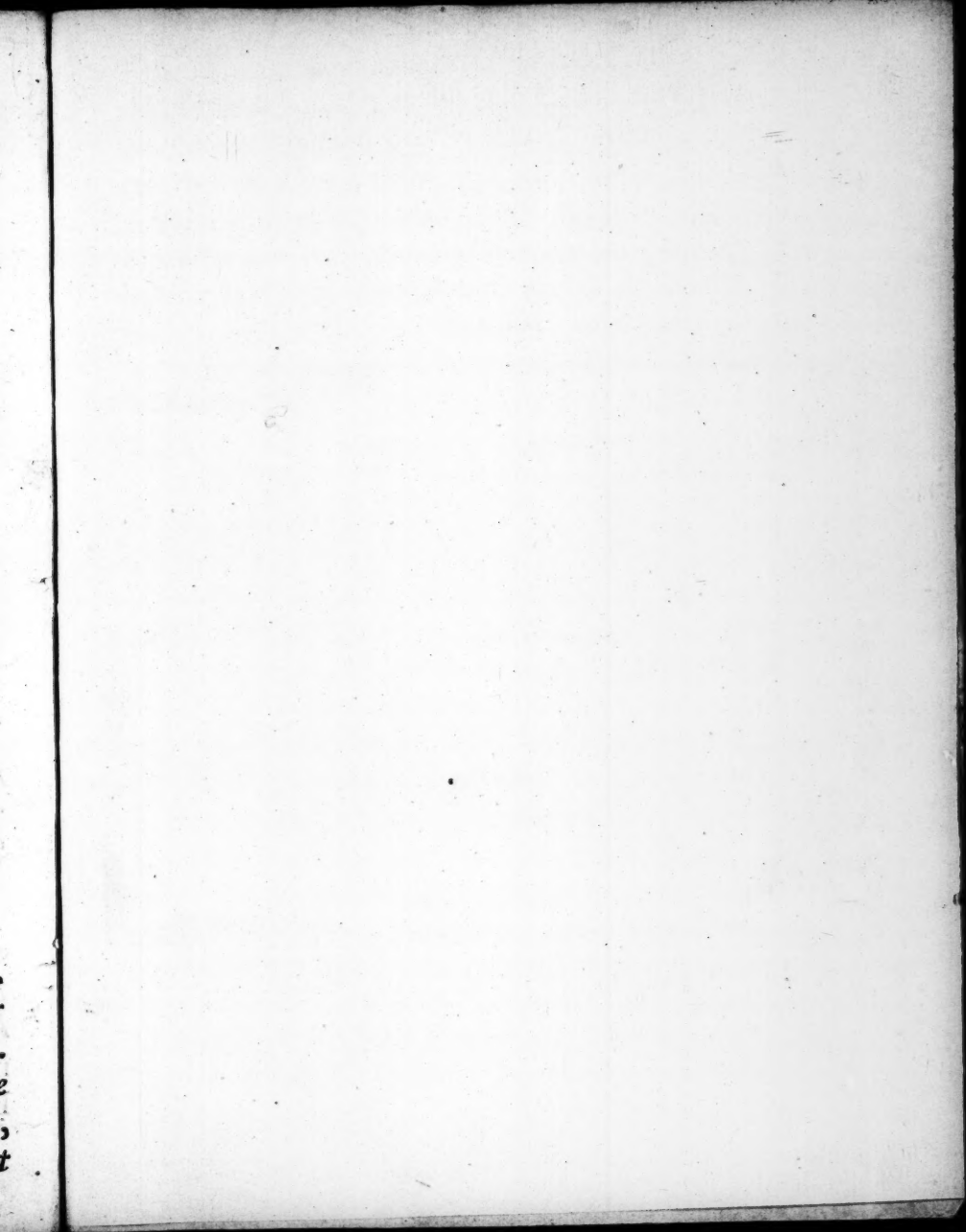
6 Hen. 4. cap. 3. That Commissions shall be issued out (after every Officers final Accompt) into the respective Countys, where the Accomptants be Officers to inquire of Frauds; And whoever is found guilty upon that Inquest, may be severely punish'd as the Statute directeth.

1 Hen. 5. cap. 4. That Under-Sheriffs and Bailiffs shall not be in Office above a year, and not within the space of three years afterwards; Because experience maketh men Crafty.

32 Hen. 8. cap. 20. That the Fines, Issues and Amerciaments actually revived and invested in the Crown, upon the Dissolution of Monasteries, shall be duly levyed, collected and gathered.

7 Edw. 6. cap. 1. That head Officers in every Court shall impose Fines upon, and Amerce Under-Sheriffs or Accomptants for not Accompting or Returning Process duly at the times limited and appointed.

31 Elizabeth cap. 5. and 21 Jacobi cap. 4. shew, That Actions Popular are included under Informations in the Statute 18 Elizabeth cap. 5. Because the Declaration or Information is not to be received until the Plaintiff or Relator make Oath,
That



Note, That the Statute 23 Hen. 6. cap. 10. Still in force to eschew Extortion, Perjury and Oppression, prohibiteth Under-Sheriffs, Clerks, Stewards, Bailiffs, Goalers and Officers to be Jury-men, which sheweth what Opinion persons of all Ranks and Degrees ever had of them.

Note, That the Judges are parties concerned in this Case and Proposals: And Your Majesty ever Graciously declared it should be determin'd according to Law, which excludes all persons concern'd to be Judges thereof: It is therefore humbly desired, that Your Majesty will be graciously pleased to be Judge of the prudent part, or refer the Examination thereof to three or more Lords of your Majesties most Honourable Privy-Council, who do not Sell Offices to advise, whether the Reports and Opinions of the Judges, Attorney General and other able Lawyers before they consulted the Officers: And the Statutes in force are to be credited, or their Allegations since, being contradictory thereto: And if any doubt arise in point of Law, to refer it to the Lawyers of the several Inns of Court: And if it be disputed whether the Abuses be true, that Special Commissioners may be appointed by your Majesty to Impanel Juries of Knights and Gentlemen of known Loyalty and great Estates in the respective Counties to inquire thereinto, whose experiences will give the clearest Testimony whether the said Brunikel, or his Opponents promote your Majesties Service.

That the Fact was committed in the County where the Action is laid. Yet the late Lord Chief Justice Pemberton reflected on the said Brunskell as ignorant of the whole duty, because he had jumbled Actions Popular and Informations together, whereas its well known there is less difference between them, then between an Information and a Declaration; But his Lordship being mistaken in saying, Your Majesty had no such Revenue, needed not have been so critically severe against the said Brunskell promoting your Majesties Interest, with Relief to all good Subjects in general,

*All which is now Humbly offered to Your
Majesties Royal Will and Pleasure, &c.*

That the Fact was committed in the County where
 the Action is laid. Yet the Law Lord Chief Justice
 Tenterden reflected on the said Baron as ignorant
 of the whole duty, because he had jumbled
 Actions Positive and Informations together,
 whereas he well knew there is this difference
 between them, that Informations in Informations
 are a Declaration; But his Lordship being
 misled in leaving, for a single, had no such Re-
 sponse, and did not have been so critically severe
 against the Law, by promoting your Ma-
 jesty's Interest, with regard to all good Subjects
 in general.



All which is now handed over to your

Majesty's service.

